

Mr. Leyendecker for today on motion of Mr. Brawner.

Mr. Manford for today on motion of Mr. Matthews.

Mr. Winfree for today on motion of Mr. Montgomery.

Mr. Martin for today on motion of Mr. McGlasson.

Mr. Deen for today, on account of illness in family, on motion of Mr. Carrington.

Mr. Ellis for today on motion of Mr. Morgan.

Mr. Isaacks for today on motion of Mr. Bean.

Mr. Avant for today, on account of illness in family, on motion of Mr. Ferguson.

Mr. Gandy for today, on account of illness in family, on motion of Mr. Walters.

Mr. Lansberry for today, on account of illness in family, on motion of Mr. Lyle.

Mr. Jones for today on motion of Mr. Carlton.

Mr. Allison for today on motion of Mr. Cato.

RELATIVE TO THE CONSIDERATION OF LOCAL AND UNCONTESTED BILLS

By unanimous consent of the House, the House set aside next Tuesday at 7:30 o'clock p. m. for the consideration of local and uncontested bills.

ADJOURNMENT

Mr. Hartzog moved that the House adjourn until 10:00 o'clock a. m. next Monday.

Mr. Eubank moved that the House recess until 10:00 o'clock a. m. today.

The motion to adjourn prevailed and the House, accordingly at 12:10 o'clock a. m. adjourned until 10:00 o'clock a. m. next Monday.

SIXTY-SECOND DAY

(Monday, April 28, 1941)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Leonard.

The roll of the House was called, and the following Members were present:

Mr. Speaker	Gandy
Allen	Garland
Allison	Gilmer
Alsup	Goodman
Avant	Halsey
Bailey	Hanna
Baker	Hardeman
Bean	Hargis
Bell	Harris of Dallas
Benton	Harris of Hill
Blankenship	Hartzog
Boone	Hefin
Brawner	Helpinstill
Bray	Henderson
Bridgers	Hileman
Bruhl	Hobbs
Bullock	Howard
Bundy	Howington
Burkett	Hoyo
Burnaman	Huddleston
Carlton	Huffman
Carrington	Hughes
Cato	Humphrey
Chambers	Hutchinson
Clark	Isaacks
Cleveland	Jones
Coker	Kelly
Colson, Mrs.	Kennedy
Connelly	Kersey
Craig	Kinard
Crossley	King
Crosthwait	Klingeman
Davis	Knight
Deen	Lansberry
Dickson of Bexar	Lehman
Dickson of Nolan	Leyendecker
Donald	Little
Dove	Lock
Duckett	Love
Dwyer	Lowry
Ellis	Lucas
Eubank	Lyle
Evans	McAlister
Favors	McCann
Ferguson	McDonald
Files	McGlasson
Fitzgerald	McLellan
Fuchs	McMurry

McNamara	Roberts
Manford	Sallas
Manning	Senterfitt
Markle	Sharpe
Martin	Shell
Matthews	Simpson
Mills	Skiles
Montgomery	Smith of Bastrop
Moore	Smith of Atascosa
Morgan	Spacek
Morris	Spangler
Morse	Stanford
Murray	Stinson
Nicholson	Stubbs
Pace	Thornton
Parker	Turner
Pevehouse	Vale
Phillips	Voigt
Price	Walters
Rampy	Wattner
Reed of Bowie	Weatherford
Reed of Dallas	White
Ridgeway	Whitesides
Rhodes	Winfree
Roark	

Absent—Excused

Anderson	Daniel
Brown	Taylor
Celaya	

A quorum was announced present.

Prayer was offered by Rev. George W. Coltrin, Chaplain, as follows:

"Lord, we praise Thee that we have been spared to this day and its privileges. We pray just now for the early recovery of our beloved Sergeant-at-Arms, if it be Thy will. May Thy Holy Spirit, of His own unwasted fulness, give us wisdom and other qualifications we so much need for the duties incumbent upon us. In Jesus' Name. Amen."

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence on account of important business:

Mr. Celaya for today on motion of Mr. Vale.

Mr. Anderson for today on motion of Mr. Dwyer.

Mr. Taylor for today, on account of military service, on motion of Mr. McAlister.

Mr. Brown for today on motion of Mr. Markle.

Mr. Daniel for today, on account of illness, on motion of Mr. Manford.

BILL RECOMMITTED

Mr. Eubank moved that House Bill No. 127 be recommitted to the Committee on State Affairs.

Mr. Hileman moved to table the motion to recommit.

The motion to table was lost.

Question then recurring on the motion to recommit House Bill No. 127 to the Committee on State Affairs, it prevailed.

Mr. Eubank moved to reconsider the vote by which the motion to recommit House Bill No. 127 prevailed and to table the motion to reconsider.

The motion to table prevailed.

MOTION TO RE-REFER HOUSE BILL NO. 327

Mr. Lucas moved that House Bill No. 327 be withdrawn from the Committee on Appropriations and referred to the Committee of the Whole House.

Mr. Morris moved to table the motion by Mr. Lucas.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—72

Allen	Files
Allison	Fitzgerald
Alsup	Gilmer
Bell	Halsey
Benton	Hanna
Boone	Hardeman
Brawner	Harris of Dallas
Bray	Harris of Hill
Bridgers	Heflin
Bruhl	Henderson
Bundy	Hileman
Burkett	Howard
Burnaman	Howington
Carlton	Hughes
Chambers	Humphrey
Clark	Isaacks
Cleveland	Jones
Coker	Kelly
Colson, Mrs.	Kinard
Connelly	Klingeman
Craig	Lansberry
Crosthwait	Leyendecker
Eubank	Little

Love	Rhodes
Lyle	Senterfitt
McAlister	Skiles
Manford	Smith of Atascosa
Markle	Spangler
Mills	Stanford
Montgomery	Stinson
Morris	Thornton
Morse	Vale
Nicholson	Walters
Phillips	Wattner
Reed of Dallas	Weatherford
Ridgeway	

Nays—66

Avant	Lock
Bailey	Lowry
Baker	Lucas
Bullock	McCann
Carrington	McDonald
Cato	McLellan
Crossley	McMurry
Deen	McNamara
Dickson of Bexar	Manning
Donald	Martin
Dove	Matthews
Duckett	Moore
Dwyer	Morgan
Ellis	Murray
Evans	Pace
Favors	Parker
Ferguson	Pevehouse
Fuchs	Price
Gandy	Rampy
Garland	Reed of Bowie
Goodman	Roark
Hargis	Roberts
Helpinstill	Sallas
Hobbs	Sharpe
Hoyo	Simpson
Huddleston	Smith of Bastrop
Huffman	Spacek
Hutchinson	Stubbs
Kennedy	Turner
Kersey	Voigt
King	White
Knight	Whitesides
Lehman	Winfree

Absent

Bean	Hartzog
Blankenship	McGlasson
Davis	Shell
Dickson of Nolan	

Absent—Excused

Anderson	Daniel
Brown	Taylor
Celaya	

RELATIVE TO REDUCTION OF
OLD AGE ASSISTANCE
GRANTS

Mr. Lucas offered the following resolution:

H. S. R. No. 229, Relative to reduction of Old Age Assistance Grants.

Whereas, The State Department of Public Welfare recently informed the Legislature that it would be necessary to reduce Old Age Assistance grants, effective in May, and

Whereas, The House of Representatives has passed H. B. No. 941, making an appropriation of \$1,250,000, to prohibit such reduction of grants from being made, and

Whereas, H. B. No. 941 has not been acted upon by the Senate, and

Whereas, It is our hope and desire that it will not be necessary for such reduction of Old Age Assistance grants to be made, now, therefore, be it

Resolved by the House of Representatives, That the State Department of Public Welfare be requested to inform the House whether their funds now available will be sufficient to pay all Old Age Assistance grants for the month of May in full, and, if not, when it will be necessary for additional funds to become available to prevent a reduction of grants for the month of May from being made.

The resolution was read second time.

Mr. Morris moved that the resolution be referred to the Committee on State Affairs.

Mr. Lucas moved to table the motion to refer.

The motion to table was lost.

Question then recurring on the motion to refer the resolution to the Committee on State Affairs, it prevailed.

EXTENDING PRIVILEGES OF
THE FLOOR

Mr. Morris offered the following resolution:

H. S. R. No. 230, Extending privileges of the floor.

Whereas, The Honorable H. M.

McCastlain, a prominent member of the Arkansas State Legislature from Monroe County, is in the capitol accompanied by Mrs. McCastlain; and

Whereas, The State of Texas has a great affection for its sister State of Arkansas and admiration for its public officials; now

Therefore, Be It Resolved by the House of Representatives, That Representative and Mrs. McCastlain be extended the courtesies of the House of Representatives, with an invitation to have seats within the bar.

The resolution was read second time and was unanimously adopted.

Mr. and Mrs. McCastlain having been escorted to the Speaker's stand, Speaker Leonard introduced them to the House and presented them with an enrolled copy of H. S. R. No. 230.

MEMORIALIZING CONGRESS IN REGARD TO PASSAGE OF CERTAIN LEGISLATION

Mr. Bullock offered the following resolution:

H. C. R. No. 102, Memorializing Congress in regard to passage of certain legislation.

Whereas, There has been introduced in the Senate of the United States Congress Senate Bill No. 1313; and

Whereas, The purposes of said Bill are set forth in its caption to strengthen national defense, promote general welfare through the appropriation of funds to assist the states and territories in meeting financial emergencies in education, and in reducing inequality of educational opportunities; and

Whereas, Many army camps, training centers for flyers, regular army reservations, migratory labor camps, erection of dams, and development of new oil fields have brought about in Texas a great change in scholastic population of various units; and

Whereas, Large groups of schools run only eight months as compared to other schools which run nine months; and

Whereas, Negro education in Texas has been sadly neglected; and

Whereas, A change in agricultural production has been brought about which has changed the scholastic population of many school districts; now therefore

Be it resolved by the House of Representatives, the Senate concurring, That we request the serious consideration, by all of the Representatives and the Senators from the State of Texas, of this Bill, and its rapid passage through both branches of the Federal Congress; and

Be it further resolved, That a copy of this Resolution be sent to each of the members of Congress from the State of Texas, and the President of the United States.

BULLOCK,
FERGUSON.

The resolution was read second time and was adopted.

PROVIDING FOR JOINT SESSION OF THE LEGISLATURE

Mr. Benton offered the following resolution:

H. C. R. No. 103, Providing for Joint Session of the Legislature.

Whereas, In these trying times of State and National emergency, and all true Americans are rallying to the call of our Democratic system of Government; and

Whereas, Our State is composed of the homes of our citizens wherein reside our mothers, wives, sisters, and sweethearts, who are vitally interested in the welfare of our great State of Texas, and the United States of America, and in the principles of Democracy; and

Whereas, This is the time for organizations, as well as individuals, to sacrifice their personal ambitions, and thereby reaffirm their allegiance to these United States of America, and seek closer cooperation for the safety of our homes and our loved ones; and

Whereas, The good women of Texas have gone on record in their various organizations, and individually, as pledging their support and their willingness to give their sons, brothers, husbands, and sweethearts to this great cause of Democracy when they are called, or volunteer to serve their country in any manner as the need arises; and that the good women themselves are ready to cooperate in every possible manner to serve their homes and their country in these distressing times; and

Whereas, The Senate, in Joint Session with the House, is desirous

of giving to the women of Texas the opportunity to state their views through their chosen leaders, who will be invited to present briefly their willingness to do their part, according to their various interests; and

Whereas, There are many women civic leaders, individual mothers, and other good women interested in the welfare of the men called into military service; and are themselves serving in various capacities in the homes, in the churches, in business, and in organized club work for the benefit of their homes and humanity; now

Therefore Be It Resolved, That the Forty-seventh Legislature, in joint session, do hereby invite the representatives or chosen leaders of the good women of Texas to come to Austin, and through several of their chosen leaders be invited to briefly address the Forty-seventh Legislature, in joint session, on Wednesday, May 7, 1941, at 11:00 a. m.

The resolution was read second time and was adopted by the following vote:

Yeas—122

Allen	Donald
Allison	Dove
Alsup	Duckett
Avant	Dwyer
Bailey	Ellis
Baker	Eubank
Bell	Evans
Benton	Favors
Boone	Ferguson
Brawner	Files
Bridgers	Fitzgerald
Bruhl	Gandy
Bullock	Garland
Bundy	Gilmer
Burkett	Goodman
Burnaman	Halsey
Carlton	Hanna
Carrington	Hargis
Cato	Harris of Dallas
Chambers	Harris of Hill
Clark	Hartzog
Cleveland	Heflin
Colson, Mrs.	Helpinstill
Connelly	Henderson
Craig	Hileman
Crossley	Hobbs
Crothwait	Howington
Davis	Hoyo
Deen	Huddleston
Dickson of Bexar	Huffman

Hughes	Murray
Humphrey	Pace
Hutchinson	Parker
Isaacks	Price
Jones	Rampy
Kelly	Reed of Bowie
Kennedy	Reed of Dallas
Kinard	Ridgeway
Knight	Rhodes
Lansberry	Roark
Lehman	Roberts
Leyendecker	Sallas
Little	Senterfitt
Lock	Sharpe
Love	Simpson
Lowry	Skiles
Lucas	Smith of Bastrop
Lyle	Smith of Atascosa
McCann	Spacek
McDonald	Spangler
McLellan	Stanford
McMurry	Stinson
Manford	Stubbs
Manning	Turner
Martin	Vale
Matthews	Walters
Mills	Wattner
Moore	Weatherford
Morgan	White
Morris	Whitesides
Morse	Winfree

Present—Not Voting

Bray	Howard
Fuchs	Markle

Absent

Bean	McGlasson
Blankenship	McNamara
Coker	Montgomery
Dickson of Nolan	Nicholson
Hardeman	Pevhouse
Kersey	Phillips
King	Shell
Klingeman	Thornton
McAlister	Voigt

Absent—Excused

Anderson	Daniel
Brown	Taylor
Celaya	

TO GRANT PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, the following resolution:

H. C. R. No. 101, by Mr. Chambers, To grant Permian Oil Company permission to sue the State.

The resolution having heretofore been read second time and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

The resolution was then adopted by the following vote:

Yeas—119

Allen	Howard
Allison	Howington
Alsup	Hoyo
Avant	Huddleston
Baker	Huffman
Bell	Hughes
Benton	Humphrey
Blankenship	Hutchinson
Boone	Isaacks
Brawner	Jones
Bray	Kelly
Bridgers	Kennedy
Bruhl	Kersey
Bullock	Kinard
Burkett	Knight
Burnaman	Lansberry
Carlton	Lehman
Carrington	Leyendecker
Cato	Little
Chambers	Love
Clark	Lowry
Cleveland	Lucas
Colson, Mrs.	Lyle
Connelly	McCann
Craig	McLellan
Crosthwait	McMurry
Davis	Manford
Deen	Manning
Dickson of Bexar	Markle
Donald	Martin
Dove	Matthews
Duckett	Mills
Dwyer	Morgan
Ellis	Morris
Eubank	Morse
Favors	Murray
Ferguson	Nicholson
Files	Pace
Fitzgerald	Parker
Fuchs	Phillips
Gandy	Price
Garland	Rampy
Gilmer	Reed of Bowie
Halsey	Reed of Dallas
Hanna	Ridgeway
Hargis	Rhodes
Harris of Dallas	Roark
Heflin	Roberts
Helpinstill	Sallas
Hileman	Senterfitt
Hobbs	Simpson

Skiles	Turner
Smith of Bastrop	Vale
Smith of Atascosa	Walters
Spacek	Wattner
Spangler	Weatherford
Stanford	White
Stinson	Whitesides
Stubbs	Winfree
Thornton	

Absent

Bailey	Klingeman
Bean	Lock
Bundy	McAlister
Coker	McDonald
Crossley	McGlasson
Dickson of Nolan	McNamara
Evans	Montgomery
Goodman	Moore
Hardeman	Pevehouse
Harris of Hill	Sharpe
Hartzog	Shell
Henderson	Voigt
King	

Absent—Excused

Anderson	Daniel
Brown	Taylor
Celaya	

ADOPTION OF CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 76

Mr. Dwyer submitted the following Conference Committee Report on House Bill No. 76:

Conference Committee Room,
Austin, Texas, April 23, 1941.

Hon. Homer L. Leonard, Speaker of the House,

Hon. Coke R. Stevenson, President of the Senate.

Gentlemen: We, your Conference Committee appointed to adjust the difference between the Senate and the House on

H. B. No. 76, A bill to be entitled "An Act for the purpose of releasing the interest and penalties on all delinquent ad valorem and poll taxes that were delinquent on or before July 1, 1940, due the State, any county, common school district, road district, levee improvement district, water improvement district, and water control and improvement district, irrigation district, and other defined subdivisions of the State, provided same are paid on or before November 1, 1941; and providing further

that this Act releasing penalties and interest shall not apply to cities, towns, and villages, and special school districts, and independent school districts unless and, etc.; and declaring an emergency."

Have had the same under consideration and beg to advise that we have reconciled our differences and recommend the passage of said House Bill No. 76 in the form hereto attached.

DWYER,
HUTCHINSON,
MANNING,
PACE,

On the part of the House.

VAN ZANDT,
MARTIN,
SHIVERS,

On the part of the Senate.

M. B. No. 76,

A BILL

To Be Entitled

An Act for the purpose of releasing the interest and penalties on all delinquent ad valorem and poll taxes that were delinquent on or before July 1, 1940, due the State, any county, common school district, road district, levee improvement district, water improvement district, and water control and improvement district, irrigation district, and other defined subdivisions of the State, provided same are paid on or before November 1, 1941; and providing further that this Act releasing penalties and interest shall not apply to cities, towns, and villages, and special school districts, and independent school districts unless and until the governing body thereof finds that unusual or excessive default in the payment of ad valorem and poll taxes has occurred and that an extension of time for the payment of said ad valorem and poll taxes will accelerate the payment thereof, and such governing body has adopted a resolution or ordinance evidencing such finding, and upon the recording of such findings of fact shall have the authority to put in force and effect the provisions hereof as to any such city, town, or village, or special school district, or independent school district; providing for

the release of costs under certain circumstances; providing that anyone desiring to pay at one time delinquent taxes for one year only wherein such taxes are delinquent for more than one year shall have the right to do so without remission of penalties and interest; providing that any person, firm or corporation availing themselves of the provisions of this Act shall be required to pay all delinquent ad valorem taxes due the State and County on any specific piece of property on which such taxes are delinquent before receiving the benefits of this Act; providing that all laws in conflict with this Act are expressly suspended during the term of this Act; providing that if any section, clause, sentence, paragraph, or part of the Act be judged to be invalid by any Court of final or competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of the Act; stating the policy of the Legislature; and declaring an emergency.

Be It Enacted by the Legislature of the State of Texas:

Section 1. That all interest and penalties that have accrued on all ad valorem and poll taxes that were delinquent on or before July 1, 1940, due the State, any county, common school district, road district, levee improvement district, water improvement district, and water control and improvement district, irrigation district, and other defined subdivisions of the State (and, subject to the provisions hereinbefore and hereinafter contained, such interest and penalties on delinquent ad valorem and poll taxes due cities, towns, and villages, and special school districts, and independent school districts,) shall be and the same are hereby released, provided said ad valorem and poll taxes are paid on or before November 1, 1941. It is provided that the provisions hereof shall not apply to cities, towns, and villages, and special school districts, and independent school districts, unless and until the governing body of any such city, town, or village, or special school district, or independent school district finds that unusual or excessive default in the payment of ad valorem and poll taxes has occurred,

and that an extension of time for the payment of such delinquent ad valorem and poll taxes will promote and accelerate the collection thereof, whereupon such governing body shall adopt a resolution or ordinance evidencing such finding, and upon the recording of such findings of fact the provisions of this Act shall be in full force and effect as to any such city, town, or village, or special school district, or independent school district. It is hereby expressly and specifically provided that penalties and interest herein released are released only on delinquent ad valorem and poll taxes and no other taxes.

Sec. 2. That all costs of every kind and character that have accrued or attached or that may hereafter accrue or attach to or by reason of delinquent poll or ad valorem taxes on which said poll or ad valorem tax the interest and penalties have been released by any of the provisions of this Act shall be and the same are hereby released and no such costs shall hereafter be charged, collected, or accounted for, provided, however, that any costs that are now due and payable to any officer or official shall remain a valid obligation, notwithstanding the provision hereof.

Sec. 3. Anyone desiring to pay at one time all the delinquent taxes for only one year wherein such taxes are delinquent for more than one year shall have the right to pay the same but without remission of penalties and interest; provided however, that any person, firm or corporation availing themselves of the benefits of this Act shall be required to pay all delinquent ad valorem taxes due the state and county on any specific piece of property on which such taxes are delinquent before the penalties and interest may be released as herein provided.

Sec. 4. All laws and parts of laws in conflict herewith are hereby expressly suspended during the term of this Act so far as they may effect this Act.

Sec. 5. It is provided further that in case any section, clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any Court of competent or final jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act,

but shall be confined in its operation to the section, clause, sentence, paragraph, or part thereof directly involved in the controversy in which said judgment shall have been rendered.

Sec. 6. This bill is enacted into a law because of the dire need of school districts and other subdivisions for funds from delinquent taxes to continue to function, and for the further purpose of giving the distressed taxpayers an opportunity to pay their taxes without the burden of the penalties and interest that have accrued, but it shall not be understood from the enactment of this law that it is the policy of the Legislature to continue to remit penalty and interest. The Forty-seventh Legislature here declared that a continuation of the policy of remitting penalty and interest on delinquent taxes would be detrimental to the best interest of this State and would, if continued, lead to still greater delinquencies in tax payments than has ever been in the history of this State.

Sec. 7. The fact that millions of dollars in taxes are now due and have been due to the State and its subdivisions for many years past, by people who would meet their obligations to the State Government if the heavy costs and penalties and interest were omitted, creates an emergency and an imperative public necessity demanding that the Constitutional Rule which requires all bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and said Act shall be in force and take effect from and after its passage, and it is so enacted.

Mr. Dwyer moved that the report be adopted.

Mr. Gilmer moved that further consideration of the conference committee report on House Bill No. 76 be postponed until tomorrow.

Mr. Kersey moved to table the motion to postpone.

The motion to table prevailed.

(Pending consideration of the report, Mr. Hartzog occupied the Chair temporarily.)

(Speaker in the Chair.)

Mr. Craig moved, as a substitute motion, that the Conference Committee report on House Bill No. 76 be not adopted and that a new Conference Committee be requested on the bill.

Mr. Kersey moved to table the substitute motion by Mr. Craig.

The motion to table prevailed.

Question recurring on the motion by Mr. Dwyer that the Conference Committee report on House Bill No. 76 be adopted. Yeas and nays were demanded.

The report was adopted by the following vote:

Yeas—114

Allen	Hargis
Allison	Harris of Dallas
Alsup	Harris of Hill
Avant	Hartzog
Bailey	Heflin
Baker	Helpinstill
Bean	Hileman
Bell	Hobbs
Benton	Howard
Blankenship	Hoyo
Boone	Huddleston
Bruhl	Huffman
Bullock	Humphrey
Bundy	Hutchinson
Burkett	Jones
Burnaman	Kennedy
Carrington	Kersey
Cato	King
Chambers	Klingeman
Clark	Knight
Cleveland	Lehman
Coker	Leyendecker
Colson, Mrs.	Little
Connelly	Lock
Crossley	Love
Crosthwait	Lowry
Davis	Lucas
Deen	Lyle
Dickson of Bexar	McCann
Dickson of Nolan	McDonald
Donald	McGlasson
Dove	McLellan
Duckett	McMurry
Dwyer	McNamara
Ellis	Manford
Evans	Manning
Ferguson	Markle
Files	Martin
Gandy	Matthews
Garland	Mills
Goodman	Montgomery
Halsey	Moore

Morgan	Shell
Murray	Simpson
Pace	Skiles
Parker	Smith of Bastrop
Pevehouse	Spacek
Phillips	Stinson
Price	Stubbs
Rampy	Turner
Reed of Bowie	Vale
Reed of Dallas	Walters
Ridgeway	Wattner
Rhodes	Weatherford
Roberts	White
Senterfitt	Whitesides
Sharpe	Winfree

Nays—29

Bray	Kelly
Bridgers	Kinard
Carlton	Lansberry
Craig	McAlister
Eubank	Morris
Favors	Morse
Fitzgerald	Nicholson
Fuchs	Roark
Gilmer	Sallas
Hanna	Smith of Atascosa
Hardeman	Spangler
Henderson	Stanford
Howington	Thornton
Hughes	Voigt
Isaacks	

Present—Not Voting

Brawner

Absent—Excused

Anderson	Daniel
Brown	Taylor
Celaya	

Mr. Alsup moved to reconsider the vote by which the report was adopted and to table the motion to reconsider.

The motion to table prevailed.

EXPRESSING FELICITATIONS TO
HONORABLE LON E. ALSUP

Mr. Morse offered the following resolution:

H. S. R. No. 232, Expressing Felicitations of the House to Honorable Lon E. Alsup.

Whereas, The members of the House of Representatives have learned that April 25, 1941, marks another mile stone in the life's journey of our most beloved fellow member, the Hon. Lon E. Alsup; and

Whereas, It is the unanimous hope and wish of the Members of the House of Representatives that this esteemed colleague live and enjoy good health for many, many years to come; and

Whereas, His service as a Member of the House of Representatives and as Chairman of the Committee on Contingent Expenses has been such as to make him an outstanding figure in the public life of the great State of Texas; and

Whereas, It is the hope of this body that he continue to serve as a Member of the House as long as he desires to do so; now, therefore, be it

Resolved, That we, the Members of the House of Representatives, wish him a very happy birthday and direct that a copy of this resolution be furnished him by the Chief Clerk of the House.

The resolution was read second time.

Signed—Leonard, Speaker; Allen, Allison, Anderson, Avant, Bailey, Baker, Bean, Bell, Benton, Blankenship, Boone, Brawner, Bray, Bridgers, Brown, Bruhl, Bullock, Bundy, Burkett, Burnaman, Carlton, Carrington, Cato, Celaya, Chambers, Clark, Cleveland, Coker, Mrs. Colson, Connelly, Craig, Crossley, Crosthwait, Daniel, Davis, Deen, Dickson of Bexar, Dickson of Nolan, Donald, Dove, Duckett, Dwyer, Ellis, Eubank, Evans, Ferguson, Miss Files, Fitzgerald, Fuchs, Gandy, Garland, Gilmer, Goodman, Halsey, Hanna, Hardean, Hargis, Harris of Dallas, Harris of Hill, Hartzog, Heflin, Helpinstill, Henderson, Hileman, Hobbs, Howard, Howington, Hoyo, Huddleston, Huffman, Hughes, Humphrey, Hutchinson, Isaacks, Jones, Kelly, Kennedy, Kersey, Kinard, King, Klingeman, Knight, Lansberry, Lehman, Leyendecker, Little, Lock, Love, Lowry, Lucas, Lyle, McAlister, McCann, McDonald, McGlasson, McLellan, McMurphy, McNamara, Manford, Manning, Markle, Martin, Matthews, Mills, Montgomery, Moore, Morgan, Morris, Murray, Nicholson, Pace, Parker, Pevehouse, Phillips, Price, Rampsy, Reed of Bowie, Reed of Dallas, Ridgeway, Rhodes, Roark, Roberts, Sallas, Senterfitt, Sharpe, Shell, Simpson, Skiles, Smith of Bastrop, Smith of Atascosa, Spacek, Spangler, Stanford, Stinson, Stubbs,

Taylor, Thornton, Turner, Vale, Voigt, Walters, Wattner, Weatherford, White, Whitesides and Winfree.

On the motion of Mr. Kelly the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.

EXPRESSING SYMPATHY OF THE HOUSE TO MRS. ZULA STEWART

Mr. Phillips offered the following resolution:

H. S. R. No. 231, Expressing Sympathy of the House to Mrs. Zula Stewart.

Whereas, It has come to our attention that our capable and efficient Calendar Clerk, Zula Stewart, is ill and is in the Seton Hospital; and

Whereas, Mrs. Stewart by her charming and pleasant personality and graciousness at all times has endeared herself to the membership of this House; and

Whereas, Her presence is missed in the House; now, therefore, be it

Resolved, That the Members of the House of Representatives do hereby express to Mrs. Stewart our sincere sympathy and hopes for a speedy recovery; and be it further

Resolved, That the Chief Clerk of the House be instructed to send a beautiful bouquet of flowers to Mrs. Stewart together with a copy of this resolution.

PHILLIPS,
EUBANK,
CRAIG,
HARDEMAN.

The resolution was read second time.

Signed—Leonard, Speaker; Allen, Allison, Alsup, Anderson, Avant, Bailey, Baker, Bean, Bell, Benton, Blankenship, Boone, Brawner, Bray, Bridgers, Brown, Bruhl, Bullock, Bundy, Burkett, Burnaman, Carlton, Carrington, Cato, Celaya, Chambers, Clark, Cleveland, Coker, Mrs. Colson, Connelly, Crossley, Crosthwait, Daniel, Davis, Deen, Dickson of Bexar, Dickson of Nolan, Donald, Dove, Duckett, Dwyer, Ellis, Evans, Favors, Ferguson, Miss Files, Fitz-

gerald, Fuchs, Gandy, Garland, Gilmer, Goodman, Halsey, Hanna, Hargis, Harris of Dallas, Harris of Hill, Hartzog, Heflin, Helpinstill, Henderson, Hileman, Hobbs, Howard, Howington, Hoyo, Huddleston Huffman, Hughes, Humphrey, Hutchinson, Isaacks, Jones, Kelly, Kennedy, Kerssey, Kinard, King, Klingeman, Knight, Lansberry, Lehman, Leyendecker, Little, Lock, Love, Lowry, Lucas, Lyle, McAlister, McCann, McDonald, McGlasson, McLellan, McMurry, McNamara, Manford, Manning, Markle, Martin, Matthews, Mills, Montgomery, Moore, Morgan, Morris, Morse, Murray, Nicholson, Pace, Parker, Pevehouse, Price, Rampsy, Reed of Bowie, Reed of Dallas, Rhodes, Ridgeway, Roark, Roberts, Sallas, Senterfitt, Sharpe, Shell, Simpson, Skiles, Smith of Bastrop, Smith of Atascosa, Spacek, Spangler, Stanford, Stinson, Stubbs, Taylor, Thornton, Turner, Vale, Voigt, Walters, Wattner, Weatherford, White, Whitesides and Winfree.

On the motion of Mr. Spacek, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.

HOUSE BILL NO. 796 ON SECOND READING

The Speaker laid before the House, as special order, on its second reading and passage to engrossment,

H. B. No. 796, A bill to be entitled "An Act further regulating the sale, transportation, storage, manufacturing, etc., of alcoholic beverages in this State under the Texas Liquor Control Act by amending portions of, repealing portions of and adding new sections to Chapter 467, Acts of the 2nd Called Session of the 44th Legislature, as amended by H. B. No. 8, Acts of the 3rd Called Session of the 44th Legislature, and by H. B. No. 5, Acts of the Regular Session of the 45th Legislature, and by S. B. No. 20, Acts of the 1st Called Session of the 45th Legislature, in the following particulars: Amending Sections 4 (a), 13, 15 (b), 15 (c), 29, 30, 32, 33, 35, 37, 38, 39, 41 and 42, all of Article I thereof; repealing subsection (d) of

Section 3, Article I; amending subdivision (f) of Sections 6, Article I; amending subdivisions (2), (5), and (8) of, and adding new subdivision (10) to Section 11, Article I; clarifying qualifications for permits; etc.; and declaring an emergency."

The bill was read second time.

Mr. Bell offered the following committee amendment to the bill:

Amend House Bill No. 796 by striking out all below the enacting clause and inserting in lieu thereof the following:

Section 1. That Subsection (d) of Section 3, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section I of House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, be in all things repealed.

Sec. II. That Sections 4 (a), 13, 15 (b), 15 (c), 29, 30, 32, 33, 35, 37, 38, 39, 41, and 42, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, and Senate Bill 20, Acts of the First Called Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 4. (a) It shall be unlawful for any person to manufacture, distill, brew, sell, possess for the purpose of sale, import into this State, export from the State, transport, distribute, warehouse, store, solicit orders for, take orders for, or for the purpose of sale to bottle, rectify, blend, treat, fortify, mix, or process any liquor in any wet area without first having procured a permit of the class required for such privilege."

"Sec. 13. (a) Any permit granted under this Act, except Wine and Beer Retailer's Permits issued to other than a railway dining, buffet, or club car, shall be good for the year in which issued and ending on August 31st of each year at twelve (12) o'clock midnight.

"(b) Any permit or license granted under the terms of either Article I or Article II of this Act shall be a purely personal privilege, revocable in the manner and for the causes herein stated, subject to ap-

peal as hereinafter provided, and shall not constitute property, nor shall it be subject to execution, nor shall it descend by the laws of testate or intestate devolution, but shall cease upon the death of the permittee or licensee; provided, however, that the Board shall prescribe rules and regulations whereby a new permit or license may be applied for and issued without requiring the payment of additional permit or license fees as to unexpired periods of affected permits or licenses upon death of the holder of any such license or permit, or of any person having an interest therein, or upon the dissolution of any partnership, or under conditions involving receivership or bankruptcy, to the end that the value or cost of the unexpired portion of the permit or license shall not be lost to the successors in interest of any business involved, and that the conduct of said business may be continued without interruption; but further provided that such privilege shall not be extended to the purchaser, in whole or in part, of any business operating under an existing permit or license; and further providing that as to such application as may be filed with the County Judge a fee shall be required to be paid as in the case of an original application for a beer license; and further provided that any successor in interest must meet all requirements of law applicable to the holder of a permit or license under the terms of this Act, except that the executor, administrator, trustee or receiver acting under any judicial proceedings shall not be required to be domiciled in the county in which the business is located.

“(c) It is further provided that the Board may, by rule and regulation provide for the manner and time, not exceeding thirty (30) days, in which the successor in interest of any deceased, insolvent, or bankrupt permittee or receiver, or of any person whose permit or license has been cancelled, may dispose in bulk of alcoholic beverages left on hand at the termination of the use of any affected permit or license.

“(d) It is expressly provided that the acceptance of a permit or license issued under either Article I or Article II of this Act shall constitute and express agreement and

consent on the part of the permittee or licensee that the Board, any of its authorized representatives, or any peace officer shall have at all times the right and privilege of freely entering upon the licensed premises for the purpose of conducting any investigation or for inspecting said premises and for the further purpose of performing any duty imposed upon the Board, its representatives, or any peace officer by this Act or by any rule and regulation of the Board.”

“Sec. 15 (b) All permit fees levied by this Act except Wine and Beer Retailer's Permits issued to other than railway dining, buffet, or club cars shall be paid in advance for one year unless such fee be collected for only a portion of the year. In such event, the fee required shall cover the period of time from the date of the permit to midnight of August 31st succeeding, and only the proportionate part of the fee levied for such permit shall be collected. The fractional part of any month remaining shall be counted as one month in calculating the fee that shall be due. A separate permit shall be obtained and a separate fee paid for each outlet of liquor in this State. No refund of permit shall for any reason be made by the Board, except when the permittee is prevented from continuing in business by reason of the result of a local option election, or upon the rejection of an application for a permit by the Board or Administrator. So much of the proceeds derived from permit fees under the provisions of this Article as may be necessary are hereby appropriated for that purpose.”

“Sec. 15 (c). (1). All permits provided for in Article I of this Act, except Wine and Beer Retailer's Permits other than for railway dining, buffet, or club cars shall be applied for and obtained from the Board. Notice of all applications filed with the Board, except Wine and Beer Retailer's, Carrier's, Private Carrier's, Industrial, Agent's, Manufacturer's Agent's, Bonded Warehouse, and Storage Permits, shall be given to the County Judge of the county wherein applicant's place of business is located, except where such notice is waived in writing by the County Judge. Such Notice shall be given by the Board. Each ap-

plication shall be accompanied by a cashier's check or a money order for the amount of the fee due the State, payable to the order of the State Treasurer.

"(2) No applicant for renewal of permit shall be required to publish notice of such application for renewal. Applications for renewal of permits shall be made under oath and shall contain all information required of the applicant by the Board or Administrator showing such applicant is not disqualified from holding a permit under this Act. Such application shall be accompanied by proper bond and remittance of required fee. Upon finding that such applicant is qualified under the terms of this Act, the Board or Administrator is authorized to issue the permit sought to be renewed. All application forms shall be furnished by the Board.

"(3) In the event any person holding a permit under the terms of this Article shall desire to change the location of his place of business, he may file his application for such change with the Board on a form to be prescribed by the Board, and the Board or Administrator may deny such application upon any grounds for which an original may be denied. Any such application may be subject to protest and hearing as though it were an application for a new permit."

"Sec. 29. (a) Any room, building, boat, structure, or place of any kind where alcoholic beverages are sold, bartered, manufactured, stored, or possessed in violation of this Act, or under conditions and circumstances contrary to the purposes of this Act, or any room, building, boat, structure, or place open to the public, or where commodities or services are sold or rendered to the public in which persons are found resorting for the purpose of drinking alcoholic beverages of any type or alcoholic content not legalized for sale therein for beverage purposes in the areas where such place is situated under the local option provisions of this Act, and all such beverages and all property kept and used in said place, hereby are declared to be a common nuisance; and any person who maintains or assists in maintaining such common nuisance shall be guilty of a violation

of this Act. The Attorney General, the County Attorney, or the District Attorney in the county wherein such nuisance exists or is kept or maintained may maintain an action by injunction in the name of the State of Texas to abate and temporarily and permanently enjoin such nuisance. Such proceedings shall, except as otherwise herein provided, be guided by the rules of other injunction proceedings. The plaintiff shall not be required to give bond in such action and the final judgment shall constitute a judgment in rem against the property as well as a judgment against the defendant. Upon such final judgment the court shall order that said room, house, building, structure, boat, or place of any kind shall be closed for a period of one year, or closed for a part of said time and until the owner, lessee, tenant, or occupant thereof shall give bond with sufficient surety to be approved by the court making the order in the penal sum of not less than One Thousand (\$1,000.00) Dollars, payable to the State and conditioned that alcoholic beverages will not thereafter be manufactured, bartered, possessed, stored, or sold, or otherwise disposed of therein, or kept thereon or therein, with the intent to sell or otherwise dispose of contrary to law, that the provisions of this Act will not be violated, that no person shall be permitted to resort thereon or therein for the purpose of drinking alcoholic beverages of any type or alcoholic content not legalized in the area where such place is situated under the local option provisions of this Act, and that the owner, lessee, tenant, or occupant thereof will pay all fines, costs, and damages assessed against him for any violation of this Act. If any condition of such bond is violated by either the owner, lessee, tenant, or occupant thereof, the whole amount may be recovered as a penalty for the use of the county wherein the premises are situated.

"(b) Upon any appeal from the judgment of the District Court such judgment shall not be superseded except upon the posting of an appeal-pending bond in the penal sum of not less than One Thousand (\$1,000.00) Dollars in addition to bond for costs of such appeal.

"(c) 'Appeal-pending bond' as

used in this Section shall mean a bond to be approved by the District Court, required to be posted before the judgment of the trial court may be superseded on appeal, and conditioned that in the event the judgment of the trial court is finally affirmed it may be forfeited in the same manner for any of the causes for which a bond required upon final judgment may be forfeited as to any acts committed during the pendency of appeal."

"Sec. 30. (a) All alcoholic beverages and the containers thereof, equipment and other property forfeited to the State as nuisances, unless otherwise herein provided, and all illicit beverages and the containers thereof forfeited to the State, shall be turned over to the Board for public or private sale in such place or manner as it may deem best; provided, that the Board shall exercise diligent effort to obtain the best available price for anything thus sold; provided, further, that any bill of sale executed by the Board or Administrator shall convey a good and valid title to the purchaser as to any such property sold. The Board shall sell alcoholic beverages only to the holders of qualified permits or licenses. No alcoholic beverages unfit to be sold for public consumption or of illicit manufacture, may be sold by the Board, but are declared a nuisance per se and may be destroyed by the Board. The certificate of any qualified chemist shall be accepted by the Board as evidence of unfitness of such alcoholic beverages.

"(b) All moneys derived from the sale of any beverages or property shall be placed in a separate fund in the State Treasury, against which may be drawn all expenses incurred in the storage, assembling, custody, and sale thereof, and for other expenses which may be incurred by the Board in the investigation of, the obtaining of evidence and acting against any violations of the provisions of this Act. All money remaining in said fund on each August 31st not obligated under the provisions hereof shall be transferred by the State Treasurer to the Old Age Assistance Fund for the benefit thereof. The funds herein appropriated shall be independent of and in addition to any other appropriations."

"Sec. 32. The Commissioners' Court of each county in the State upon its own motion may order an election wherein the qualified voters of any county or of any justice precinct or incorporated town or city may by the exercise of local option determine whether or not the sale of alcoholic beverages of one or more of the various types and alcoholic content shall be prohibited or legalized within the prescribed limits of such county, justice precinct, or incorporated town or city; and local option elections shall be called by the Commissioners' Court upon proper petition as herein provided. Upon the application of any one or more qualified voters of any county, justice precinct, or incorporated town or city, the County Clerk of such county shall issue to the applicant or applicants a petition to be circulated among the qualified voters thereof for the signatures of those qualified voters in such area who desire that a local option election be called therein for the purpose of determining whether the sale of alcoholic beverages of one or more of the various types and alcoholic content shall be prohibited or legalized within the prescribed limits of such county, justice precinct or incorporated town or city. The petition so issued shall clearly state the issue or issues to be voted upon in such election; each such petition shall show the date of its issue by the County Clerk and shall be serially numbered, and each page of such petition shall bear the same date and serial number, and shall bear the seal of the County Clerk. The County Clerk shall deliver as many copies of said petition as may be required by the applicant and each copy shall bear the date, number and seal on each page as required in the original. The County Clerk shall keep a copy of each such petition and a record of the applicants therefor. When any such petition so issued shall within one hundred and twenty (120) days after the date of issue be filed with the Clerk of the Commissioners' Court bearing the actual signatures of as many as thirty (30%) per cent of the qualified voters in any such county, justice precinct, incorporated town or city, together with a notation showing the voting precinct wherein each of the said signers resides,

taking the votes for Governor at the last preceding General Election as the basis for determining the qualified voters in any such county or political subdivision, it is hereby required that the Commissioners' Court at its next regular session shall order a local option election to be held upon the issue or issues set out in such petition. It shall be the duty of the County Clerk to check the names of the signers of any such petition and the voting precincts in which they reside to determine whether or not the signers of such petition are in fact qualified voters of the county or political subdivision at the time such petition is presented, and to certify to the Commissioners' Court the number of qualified voters signing such petition. No signatures shall be counted where there is reason to believe that it is not the actual signature of the purported signer. The minutes of the Commissioners' Court shall record the date any such petition is presented, the names of the signers thereof, and the action taken with relation to the same. No subsequent election upon the same issue in the same political subdivision shall be held within two (2) years from the date of the preceding local option election in any county or political subdivision thereof."

"Sec. 33. When the Commissioners' Court shall order an election as herein provided for, it shall be the duty of said Court to order such county or subdivision thereof, upon a day not less than thirty (30) nor more than sixty (60) days from the date of said order, and the order thus made shall state the issue or issues to be voted upon in such election, and said order shall be held to be prima facie evidence that all provisions necessary to give it validity or to clothe the court with jurisdiction to make it valid, have been duly complied with; provided that such Court shall appoint such officers to hold such elections as are now required to hold General Elections."

"Sec. 35. (a) At said election the vote shall be by official ballot which shall have printed or written thereon at the top thereof in plain letters the words 'Official Ballot.' Said ballot shall have also written or printed thereon the issue or issues appropriate to the election

order as provided in Section 40 of this Act, and the Clerk of the Court shall furnish the presiding officer of each voting box within such subdivision or county with a number of such ballots, to be not less than twice the number of qualified voters at such voting boxes, and the presiding officer of each voting box shall write his name on the back of each ballot before delivering the same to the voter, and each person offering to vote at each election shall, at the time he offers to vote, be furnished by such presiding officer with one such ballot; and no voter shall be permitted to depart with such ballot and shall not be assisted in voting by any person except such presiding officer or by some officer assisting in the holding of such election, under the direction of such presiding officer when requested to do so by such voter.

"(b) In elections to legalize the sale of alcoholic beverages those in favor of such legalization shall erase the words 'Against legalizing the sale of, etc.' by making a pencil mark through same; and those who oppose such legalization shall erase the words 'For legalizing the sale of, etc.' by making a pencil mark through same.

"In elections to prohibit the sale of alcoholic beverages those who favor such prohibition shall erase the words 'Against prohibiting the sale of, etc.' by making a pencil mark through same; and those who oppose such prohibition shall erase the words 'For prohibiting the sale of, etc.' by making a pencil mark through same. No ballot shall be received or counted by the officers at such elections that is not an official ballot, and that has not the name of the presiding officer of such election written thereon in the handwriting of such presiding officer as provided by this Act."

"Sec. 37. Said Court shall hold a special session on the fifth day after the holding of said election, or as soon thereafter as practicable, for the purpose of canvassing the votes and certifying the results, and if a majority of the voters favor the issue 'For prohibiting the sale, etc.' or 'Against legalizing the sale, etc.' as to any alcoholic beverages of the various types and alcoholic content, said Court shall immediately make an order declaring the results of said

vote and absolutely prohibiting the sale of such prohibited type or types of alcoholic beverages within the political subdivision after thirty (30) days from the date of declaring the results thereof, and thereafter until such time as the qualified voters therein may thereafter at the legal election held for such purpose by a majority vote decide otherwise; and the order thus made shall be held as prima facie evidence that all provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof."

"Sec. 38. The order of said Court declaring the result and prohibiting the sale of any or all types of alcoholic beverages shall be published by the posting of said order at three (3) public places within the county or the political subdivision in which the election was held, which fact shall be entered by the County Judge on the minutes of the Commissioners Court. An entry thus made or a copy thereof certified under the hand and seal of the Clerk of the Court shall be prima facie evidence of such posting."

"Sec. 39. If a majority voting at such election favor the issue 'For legalizing the sale, etc.,' or 'Against prohibiting the sale, etc.,' as to any alcoholic beverages of the various types and alcoholic content, the Court shall make an order declaring the results and have the same entered of record in the office of the Clerk of said Court, whereupon it shall be lawful in such political subdivision to manufacture, sell or distribute such type or types of alcoholic beverages as may be favored in the election in accordance with the terms of this Act, until such time as the qualified voters therein may thereafter, at a legal election held for that purpose, by a majority vote decide otherwise, and the order thus made shall be held prima facie evidence that all the provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof. It shall be the duty of the County Clerk within three (3) days after the results of any such election have been declared to certify such results to the Secretary of State at Austin."

"Sec. 41. Any person who vio-

lates any provision of this Act for which a specific penalty is not provided shall be deemed guilty of a misdemeanor and upon conviction be punished by fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

"The term 'specific penalty' as used in this Section means and refers only to a penalty which might be imposed as a result of a criminal prosecution."

"Sec. 42. (a) All alcoholic beverages declared by this Act to be a nuisance, and all illicit beverages as defined by this Act, and all equipment, fixtures, and property kept and used in the maintenance of an alleged nuisance may be seized with or without a warrant by any agent or employee of the Texas Liquor Control Board, or by any peace officer, and any person found in the possession or in charge thereof may be arrested without a warrant. No alcoholic beverages or articles so seized shall be replevied, but shall be stored by the Board, or by the Sheriff of the county wherein the seizure was made, to be held for final action of the court as hereafter provided.

"(b) It shall be the duty of the Attorney General, the District Attorney, and the County Attorney, or any of them, when notified by the officer making the seizure, or by the Texas Liquor Control Board, that such seizure has been made, to institute a suit for forfeiture of such alcoholic beverages and property, such suit to be brought in the name of the State of Texas in any court of competent jurisdiction in the county wherein such seizure was made. Notice of pendency of such suit shall be served in the manner prescribed by law and the case shall proceed to trial as other civil cases. If upon the trial of such suit it is found that alcoholic beverages or property are a nuisance or were used or kept in maintaining a nuisance, under the terms of this Act, or that the alcoholic beverage is illicit, as defined by this Act, then the court trying said cause shall render judgment forfeiting the same to the State of Texas and ordering the same disposed of as provided for by Section 30 of this Article. The costs of such proceedings shall be paid by

the Board, out of funds derived under the provisions of said Section 30, or from any other fund available to the Board for such purpose.

"(c) As to any property or articles upon which there may be a lien, by a bona fide lien holder, the holder of such may intervene to establish his rights and shall be required to show such lien to have been granted in a bona fide manner and without knowledge of the fact at the time of creation of the lien, that any article or property upon which such lien exists had been used or was to be used in violation of this Act. If the holder of any such lien shall intervene, then the Court trying said cause shall render judgment forfeiting the same to the State of Texas, and authorizing the issuance of an order of sale directed to the Sheriff or any constable of the County wherein the property was seized, commanding such officer to sell said property in the same manner as personal property is sold under execution. The court may order such property sold in whole or in part as it may deem proper and the sale shall be conducted at the courthouse door. The money realized from the sale of such property shall be applied first to the payment of the costs of suit and expenses incident to the sale and after such expenses have been approved and allowed by the court trying the case, then the further proceeds of such sale shall be used to pay all such liens according to priorities, and any remaining proceeds shall be paid to the Board to be allocated as provided in Section 30 hereof. All such liens against property sold under this Section shall be transferred from the property to the proceeds of its sale.

"(d) The sheriff executing said sale shall issue a bill of sale and certificate to the purchaser of said property, and such bill of sale or certificate shall convey valid and unimpaired title to such property."

Sec. III. That Subdivision (f), Section 6, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"(f) To require by rule and regulation that any liquor sold in this State shall conform in all respects to

the advertised quality of such products; to promulgate and enforce rules and regulations governing labeling and advertising of all liquors sold in this State; to adopt and enforce a standard of quality, purity, and identity of all alcoholic beverages and to promulgate all such rules and regulations as shall be deemed necessary to fully safeguard the public health and to insure sanitary conditions in the manufacturing, refining, blending, mixing, purifying, bottling, and rebottling of any alcoholic beverage and the sale thereof; to adopt and enforce rules and regulations to standardize the size of containers in which liquors may be sold in this state, as well as to any representations required or allowed to be displayed or shown thereon or therein; provided that in respect to the sale of wine to retail dealers the minimum size of such containers shall be six (6) ounces and the maximum size one (1) gallon."

Sec. IV. That Section 11, Article I Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, be amended as to subdivisions (2), (5), and (8), and by the addition of a new subdivision designated as (10), all of which shall hereafter read as follows:

"(2) That the applicant has violated or caused to be violated any provision of this Act or any rule or regulation of the Board during the twelve (12) months period preceding the date of his application."

"(5) That the applicant is not of good moral character, that his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad, or that he is under twenty-one (21) years of age."

"(8) That the Board or Administrator believes or has reason to believe that the applicant will sell or knowingly permit any agent, servant, or employee to unlawfully sell liquor in dry area or in any other manner contrary to law."

"(10) It is hereby declared that the provisions of this Section are required to be applied only to applicants who are newly engaging in the liquor business or whose permits or licenses have been cancelled under any authority contained in this Act.

As to those applicants seeking renewal of permits the Board or Administrator shall be vested with discretionary authority to refuse or grant such permits under the restrictions of this Section."

Sec. V. That Subdivision (6), Section 12, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, be amended so as to hereafter read as follows:

"(6) That the place or manner in which permittee conducts his business is of a nature which, based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, warrants the cancellation or suspension of the permit."

Sec. VI. That Section 15, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, and as further amended by Senate Bill 20, Acts of the First Called Session of the Forty-fifth Legislature, be amended as to Subsection (9) and by the addition of a new Subsection (9 ½), all of which shall hereafter read as follows:

"(9) Agent's Permit. An Agent's Permit shall authorize the holder thereof to:

"(a) Represent only the holders of permits within this State, other than retail permittees, authorized to sell liquor to retail dealers in Texas;

"(b) Solicit and take orders for the sale of liquor from only authorized permit holders.

"No such permit shall be granted to any person until he shall show to the satisfaction of the Board that he has been employed or authorized to act as agent for the holder of a permit required by this Act.

"It is not intended that an Agent's Permit shall be required of the employee of a permit holder who sells liquor but who remains on the licensed premises in making such sale.

"No person holding an Agent's Permit shall be entitled to a Manufacturer's Agent's Permit.

"It shall be unlawful for the holder of an Agent's Permit to transport or carry liquor as samples; provided that nothing herein shall restrict

such person from carrying or displaying empty sample containers.

"The annual fee for such permit shall be Five Dollars (\$5.00)."

"(9 ½) Manufacturer's Agent's Permit. A Manufacturer's Agent's Permit shall authorize the holder thereof to:

"(a) Represent only the holders of Nonresident Seller's Permit.

"(b) Solicit and take orders for the sale of liquor from only the holders of permits authorized to import liquors for the purpose of resale.

"No such permit shall be granted to any person until he shall show to the satisfaction of the Board that he has been duly authorized to act as agent of the principal he proposes to represent.

"No person holding a Manufacturer's Agent's Permit shall be entitled to an Agent's Permit.

"It shall be unlawful for the holder of a Manufacturer's Agent's Permit to transport or carry liquor as samples; provided that nothing herein shall restrict such person from carrying or displaying empty sample containers.

"The annual fee for such permit shall be Five Dollars (\$5.00)."

Sec. VI-A. That Section 15, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, and as further amended by Senate Bill No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be amended by the insertion of a new Subsection designated as (7 ½) and reading as follows:

"(7 ½) 1. Nonresident Seller's Permit. A Nonresident Seller's Permit shall be required of all distillers, wineries, importers, brokers, and others who sell liquor to the holders of permits authorizing the importation of liquor into Texas, regardless of whether such sales are consummated within or without the State. Such permit shall authorize the holder thereof to:

"(a) Solicit or take orders for liquor from only the holders of permits authorized to import liquor into this State;

"(b) Ship, or cause to be shipped, liquor into Texas only in consumma-

tion of sales made to the holders of permits authorized to import liquor into Texas.

"2. No permit shall be granted to an applicant for a Nonresident Seller's Permit until it shall have been shown by the applicant that he has first filed with the Secretary of State a certificate certifying that he has appointed an agent, resident within this State, together with the street address and business of such agent. All notices of hearing for refusal, cancellation, or suspension may be served upon the designated agent as required herein, or upon the permittee, or, if a corporation, upon any officer thereof, or upon any other agent of the nonresident seller authorized as such to sell liquor in this State, and all proceedings as to such hearings shall be as is otherwise provided by this Act. Service of notice in such manner shall constitute due process; provided further that if any permittee shall have failed to maintain within this State a designated agent for service as herein required, service may be had on the Secretary of State, and it shall be the duty of the Secretary of State to send any citation served on him to the holder of the permit by registered mail, return receipt requested, and such receipt shall be prima facie evidence of service upon the permittee.

"3. The Board shall promulgate and enforce rules and regulations requiring the filing of monthly reports supported by copies of invoices relating to liquor sold or purported to be sold to all persons within this State by the holders of Nonresident Seller's Permit. Such report form shall be prescribed and furnished by the Board.

"4. It shall be unlawful for any person holding a Nonresident Seller's Permit, or for any officer, director, agent or employee thereof, or for any affiliate, whether corporate or by management, direction or control, to:

"(a) Hold or have an interest in the permit, business, assets, or corporate stock of any person authorized to import liquor into this State for the purpose of resale; provided that such restrictions shall not be applicable to any interest acquired on or before January 1, 1941.

"(b) Fail to make and file a report with the Texas Liquor Con-

trol Board in Austin, Texas, as and when required by any authorized rule and regulation of the Board.

"(c) Sell liquor for resale within this State which does not meet the standards of quality, purity and identity of regulations adopted by the Board.

"(d) Advertise any liquor contrary to the laws of this State, or of the regulations of the Board, or to sell liquor for resale in Texas contrary to the labeling and advertising regulations of the Board.

"(e) Sell liquor for resale in Texas or to cause liquor to be brought into this State in any size container prohibited by law or regulations of the Board.

"(f) Solicit or take orders for liquor from any person not authorized to import liquor into Texas for the purpose of resale.

"(g) Induce, persuade or influence any person, or to conspire with any person, or to attempt to induce, persuade or influence any person, to violate this Act or any regulation of the Board.

"(h) Violate any provision of Section 17, Article I, of this Act.

"(i) Exercise any privilege conveyed under a Nonresident Seller's Permit during the pendency of an order of suspension imposed by the Board or Administrator.

"5. All liquor and the containers thereof sold, imported or shipped into this State, or possessed, stored or transported in violation of the restrictions contained in this Section are hereby declared illicit and subject to seizure and forfeiture as otherwise provided for 'Illicit Beverages.'

"6. In event of cancellation or suspension of any Nonresident Seller's Permit, the Board shall give immediate notice thereof in writing to all holders of permits authorized to import liquor into this State.

"7. Every holder of a Nonresident Seller's Permit shall permit any State Officer to make examination of all books, accounts, records, minutes, letters, memoranda, documents, checks, vouchers, telegrams, constitution and by-laws, and other records of said permittee as often as may be deemed necessary by such Officer. A written request shall be made to the permittee or his duly authorized manager or representative, or, if a

corporation, to any officer thereof, at the time such Officer desires to examine the business of said permittee. It shall be the duty of the person to whom said request is presented to immediately permit the said Officer to inspect and examine all the said books, records, and other documents of such permittee, and to answer under oath any questions propounded by such Officer with reference thereto. The said State Officer shall have the power and authority to make investigation into the organization, conduct and management of any person holding a Nonresident Seller's Permit and he shall have authority to inspect and examine any of its books, records and other documents and to take such copies thereof as in his judgment may show or tend to show that said permittee has been or is engaged in violation of its rights and privileges or in violation of any law of this State. No such State Officer as herein provided shall make public or use documents or information derived in the course of examination of records or documents, except in the course of some proceeding in which the Board or the State is a party, either judicial in nature or in an action instituted to suspend or cancel the permit or to collect taxes due or penalties for violation of the laws of this State, or for the information of any officer of this State charged with the enforcement of its laws. If any permittee or his duly authorized representative shall fail or refuse to permit examination of records as herein provided or shall refuse to answer any questions propounded by such Officer incident to the examination or investigation in progress, or shall refuse to permit a State Officer to take copies of said books, records, or other documents, whether same be situated within or without this State, his permit shall be subjected to suspension or cancellation as provided in this Act.

"State Officer" as used in this Section shall mean and include any representative of the Texas Liquor Control Board, the Attorney General of Texas, or any assistant or representative of such Attorney General.

"8. All holders of Nonresident Seller's Permits shall be required to designate in such manner and on

such forms as may be required by the Board those persons authorized as agents to represent such permit holder in this State, and any failure to do so shall constitute a violation of this Act.

"9. No fee shall be paid for a Nonresident Seller's Permit."

Sec. VII. Section 17, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, and by Senate Bill No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be further amended as to Subsection (1), Subdivisions (b), (d) and (f) of Subsection (3), Subsection (4), Subsection (8), Subsection (9), Subsection (12) and Subsection (17), and by the addition thereto of new Subsections (18), (19), (20), (21), (22), (23), and (24), all of which shall hereafter read as follows:

"Sec. 17. (1) It shall be unlawful for any person holding a Package Store Permit, or owning an interest in a package store, to have any interest, either directly or indirectly, in a Wine and Beer Retailer's Permit, or Beer Retailer's License, or the business thereof; provided, that it shall not be unlawful for a person holding a Wine-only Package Store Permit to also hold a Beer Retail Dealer's Off-Premise License.

"(b) To furnish, give or lend any money, service, or other thing of value, or to guarantee the fulfillment of any financial obligation of any retailer;

"(d) To furnish, give, rent, lend, or sell to any retail dealer any equipment, fixtures, or supplies to be used in the selling or dispensing of alcoholic beverages;

"(f) To offer any prize, premium, gift, or other similar inducement to any retailer or consumer, or the agent, servant, or employee of either.

"(4) It shall be unlawful for any person operating under a permit under Article I of this Act to refuse to allow the Board, or any authorized representative of the Board, or any peace officer, upon request to make a full inspection, investigation, or search of any licensed premise or vehicle.

"(8) It shall be unlawful for any person to break or open any container

containing liquor, or to possess such opened container of liquor on the premises of a package store.

"(9) It shall be unlawful for any person to sell, barter, exchange, deliver, or give away any drink or drinks of liquor to any person from a package or container that has for any reason been opened or broken on the premises of a package store.

"(12) It shall be unlawful for any person to have in his possession, to transport, manufacture, or sell any illicit beverage.

"(17) It shall be unlawful for any person to manufacture, import, sell, or possess for the purpose of sale any alcoholic beverages made from dried grapes, dried fruits, and dried berries, or any compounds made from synthetic materials, substandard wines or from must concentrated at any time to more than eighty degrees (80°) Balling.

"(18) It shall be unlawful for any person to import or to transport into this State from any place outside the State any liquor, in containers to which have not been affixed proper State tax stamps, consigned to, intended for delivery to, or being transported to any person or place located within the State boundaries, unless the same shall be consigned to the holder of a Wholesaler's Permit authorizing the sale of such liquor and at his place of business.

"(19) It shall be unlawful for any person to use, display, or to exercise any privilege granted by a permit except at the place, address, premises, or location for which the permit is granted.

"(20) It shall be unlawful for any person to consent to the use of or to allow his permit to be displayed by or used by any person other than the one to whom the permit was issued.

"(21) It shall be unlawful for any holder of either an Agent's Permit or a Manufacturer's Agent Permit to solicit or take orders for the sale of liquor, or to represent himself as an agent of any person, other than the person designated in the application for permit as being represented.

"(22) It shall be unlawful for the holder of a Wholesaler's, Class B Wholesaler's, or Wine Bottler's Permit, or any agent, servant or employee thereof, to sell or deliver liquor to any person who is not the

holder of a permit authorizing the resale of liquor in this State.

"(23) It shall be unlawful for any retail dealer, or any agent, servant or employee thereof, to conspire with any person to violate any of the provisions of this Section or to accept the benefits of any act prohibited by this Section.

"(24) It shall be unlawful for the holder of any permit provided for in this Act authorizing the importation of liquor, or the agent or employee of such person, to purchase from, order from, or give an order to, any person who is not the holder of a Nonresident Seller's Permit, or any holder of a Nonresident Seller's Permit during the period of any suspension ordered by the Board or Administrator against any such Nonresident Seller's Permit after such authorized importer has received notice of such suspension."

Sec. VII-A. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended, be further amended by the addition thereto of a new section to be designated as Section 17 (b), reading as follows:

"17 (b) It shall be unlawful for any person holding a Wholesaler's Permit under the provisions of this Act, or any agent, servant or employee thereof, to sell liquor to any person on credit.

"Any sale of liquor under any terms or conditions whereby payment for same is deferred later than the time the liquor is surrendered or delivered to the purchaser, whether by promise to pay, by post-dated check, or by any other expressed or written commitment, contract, agreement or system whereby the seller does not on or before such time come into possession of immediately negotiable money, check or other consideration for the liquor sold, shall be deemed a sale on credit.

"The restriction herein contained shall not be applicable to sales of liquor made by the holders of Brewer's, Distiller's, Winery, Rectifier's, Wholesaler's, Wine Bottler's, or Nonresident Seller's Permits as respecting transactions with or between themselves and the holders of permits of the same classification."

Sec. VII-B. That Subsection (12), Section 15, Article I, Chapter 467,

Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, and by Senate Bill No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"(12) Private Carrier Permit. The holders of Brewer's, Distiller's, Class A Winery, Class B Winery, Rectifier's, Wholesaler's, Class B Wholesaler's, and Wine Bottler's Permits shall be entitled to transport liquor to or from the place of sale or distribution and to make deliveries to purchasers upon vehicles owned or leased in good faith by such permittees when such transportation is for a lawful purpose; provided, however, that such permittees shall not be permitted to engage in the business of transporting for hire such liquor in violation of the motor carrier laws of this State, and any such permittee desiring to engage in such business for hire shall first secure a certificate or permit, as the case may be, from the Railroad Commission of Texas under the terms of the motor carrier laws, and shall be required to comply with the provisions of such laws. Motor vehicles used for such transportation shall be fully described in the application for a private carrier permit and such application shall contain all information which shall be required by the Board. All vehicles used for such transportation within the State by such permittees shall have printed or painted on said vehicles such designation as may be required by the Board. It shall be unlawful for any such permittee above named to transport liquors in any vehicle not fully described in his application for a permit.

"The annual fee for such permit shall be Five Dollars (\$5)."

Sec. VIII. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended, be further amended by adding thereto new sections designated as Sections 41-A, 43-A, and 43-B, all of which shall read as follows:

"Sec. 41-A. If it be shown upon the trial of a case involving violation of this Act that the defendant has once before been convicted of violat-

ing this Act since the effective date hereof, then, and in that event, conviction shall require the assessment of a fine of not less than Two Hundred Dollars (\$200) and not more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment; further provided that if it be shown upon the trial of a case involving a violation of this Act that the defendant has two or more times before been convicted of violating this Act since the effective date hereof, upon the third or any subsequent conviction the penalty shall be that of a felony, requiring imprisonment for not less than six (6) months and not more than five (5) years. Any prior conviction cited to enhance the penalty as herein provided may be used and cited any number of times to enhance the penalty upon any subsequent conviction.

"Sec. 43-A. No permit or license applied for under the terms of this Act may be issued to any person upon an application, either for an original license or permit, or for any license or permit sought to be transferred from another location, where the premises for which the permit or license is sought is licensed under any permit or license against which an order of suspension by the Board or Administrator is pending or unexpired, or against which existing permit or license the Board has initiated action to cancel or suspend.

"Sec. 43-B. When the terms 'citizen of Texas' and 'citizen of this State' are used in this Act, they shall mean not only citizenship in Texas, as required by this Act, but shall also require citizenship in the United States."

Sec. IX. That Subsection (d), Section 45, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"(d) Refunds for liquor stamps may be made by the Board from the revenue derived from the sale of such stamps before the same has been allocated, and so much of such funds as may be necessary is hereby appropriated for that purpose. A

refund may be made by the Board in all cases where stamped liquor is returned to the distillery or manufacturer upon certification by an Inspector for the Board who inspected the shipment. The Board may also make a refund to any person who was authorized to purchase stamps and who is in possession of unused liquor stamps upon discontinuation of business. In either instance it must be shown that the stamps for which a refund is asked were purchased from the State Treasurer. No other refunds for liquor stamps shall be allowed."

Sec. X. That Subsection (e), Section 1, Article II, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, be it further amended so as to hereafter read as follows:

"(e) The term 'licensee' means any holder of a license provided this Article, or any agent, servant, or employee thereof."

Sec. XI. That Subsection (f), Section 3, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"(f) Branch License: The holder of a Manufacturer's or General Distributor's License, after obtaining the primary license in the county of his domicile or residence, may establish other places of business in any counties wherein the sale of beer is legal for the distribution of beer upon obtaining a Branch License for each such place of business as herein provided. Any Branch License issued under the provisions of this Section shall terminate at the same time as the primary license of such licensee. The annual state fee for a Branch License shall be Fifty (\$50) Dollars; provided, however, that the fee for any license required to terminate in less than twelve (12) months from the date of issue shall be paid in advance at the rate of Four Dollars and Twenty-five Cents (\$4.25) for each month or fraction thereof for which the license is issued.

"To obtain a Branch License the applicant therefor shall present the primary license secured in the county of his residence to the Assessor and Collector of Taxes in the county in which the application is filed together with the fee herein provided, and it shall be the duty forthwith of such Assessor and Collector of Taxes to certify to the Texas Liquor Control Board, that such application has been made and the required fees paid, and such other information as the Board may require; and upon receiving such certificate and report from the Assessor and Collector of Taxes it shall be the duty of the Board or Administrator to issue the Branch License accordingly.

"If, by local option election, the holder of a Branch License shall be prevented from selling beer in the county of his residence and for such reason his primary license becomes void, nevertheless he shall not be denied the right of lawfully selling beer under any existing Branch License until the normal expiration thereof; it further being provided that any such manufacturer or distributor may, upon the expiration of any such Branch License, immediately thereafter obtain in any county wherein a Branch License has been held a primary Manufacturer's or Distributor's License without the necessity of qualifying as a resident of the county in which such primary license is sought."

Sec. XII. That Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended, be further amended by the adoption of new sections to be designated as Section 5-A, 10 1/2-A, 19-A, and 19-B, all of which shall hereafter read as follows:

"Sec. 5-A. The restrictions as to residence in the county in which a Retail Dealer's License is applied for shall not be applicable to any retail dealer as may have qualified by law and obtained a Retail Dealer's License in the county of his residence, when such retail dealer also seeks to obtain a Retail Dealer's License in any other county."

"Sec. 10 1/2-A. All incorporated cities and towns are hereby authorized in adopting charter amendments or ordinances to distinguish between retailers selling beer for consumption on the premises where

sold and those retailers, manufacturers, or distributors selling not for consumption on the premises where sold, and to provide for separate and distinct regulations."

"Sec. 19-A. As to any causes for cancellation of licenses herein provided, in lieu of such cancellation, the Board or Administrator shall have the discretionary power and authority to suspend any such license for a period not to exceed sixty (60) days."

"Sec. 19-B. For the purposes contemplated by this Act, conduct by any person at a place of business where the sale of beer at retail is authorized that is lewd, immoral, or offensive to public decency is hereby declared to include but not be limited to the following prohibited acts; and it shall be unlawful for any person engaged in the sale of beer at retail, or any agent, servant, or employee of said person, to engage in or to permit such conduct on the premises of the retailer:

"(a) The use of or permitting the use of loud and vociferous or obscene, vulgar, or indecent or abusive language.

"(b) The exposure of person or permitting any person to expose his person.

"(c) Rudely displaying or permitting any person to rudely display a pistol or any other deadly weapon in a manner calculated to disturb the inhabitants of such place.

"(d) Solicitation of any person for coins to operate musical instruments or other devices.

"(e) Solicitation of any person to buy drinks or beverages for consumption by the retailer or his employees.

"(f) Becoming intoxicated on licensed premises or permitting any intoxicated person to remain on such premises.

"(g) Permitting entertainment, performances, shows, or acts that are lewd or vulgar.

"(h) Permitting solicitation of persons for immoral or sexual purposes or relations.

"(i) Failing to comply with or failure to maintain the retail premises in accordance with existing sanitary and health laws of this State or any sanitary or health provision of a city ordinance."

Sec. XIII. That Sections 6 and 26 of Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, and Senate Bill 20, Acts of the First Called Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 6. (a) The application of any person desiring to be licensed to manufacture, distribute, or sell beer shall be filed in duplicate with the County Judge, who shall set same for a hearing at a date not less than five (5) nor more than ten (10) days from the filing of same.

"(b) Upon the filing of any application for a license, the County Clerk shall give notice thereof by posting at the courthouse door a written notice of the filing of such petition, and the substance thereof, and the date of hearing upon such petition. Any citizen shall be permitted to contest the facts stated in said petition and the applicant's right to secure license upon giving security for all costs which may be incurred in such contest should this case be decided in favor of the applicant; provided, however, no officer of a county or any incorporated city or town shall be required to give bond for such costs.

"(c) If upon hearing upon the petition of any applicant for a license the County Judge finds the facts stated therein to be true and has no other lawful reason for denying the application, he shall enter an order so certifying, and a copy of said order shall be delivered to the applicant; applicant shall thereupon present the same to the Assessor and Collector of Taxes of the county wherein the application is made and shall pay to the Assessor and Collector of Taxes the fee specified in this Article for the class of license applied for; the Assessor and Collector of Taxes shall thereupon report to the Texas Liquor Control Board upon a form prescribed by said Board certifying that the application for license has been approved and all required fees paid, and such other information as may be required by the Board, and to such certificate shall be attached a copy of

the original application for license. Upon receiving such report or certification from the Assessor and Collector of Taxes, it shall be the duty of the Board or Administrator to issue the license accordingly, if it is found that the applicant is entitled to a license, which license shall show the class of business the applicant is authorized to conduct, amount of fees paid, date, correct address of the place of business, and date of expiration, and such other information as the Board shall deem proper; provided, however, that the Board or Administrator may refuse to issue any such license if in possession of information from which it is determined that any statement contained in the application therefor is false, untrue, or misleading, or that there are other legal reasons why a license should not be issued. Upon any refusal by the Board or Administrator, applicant shall be entitled to refund of any license fee paid to the County Assessor and Collector of Taxes at the time of filing his application.

“(d) If upon hearing upon the petition of any applicant for a license the County Judge finds any facts stated therein to be untrue, the application shall be denied; and it shall be sufficient cause for the County Judge to refuse to grant any license when he has reason to believe that the applicant will conduct his business of selling beer at retail in a manner contrary to law or in any place or manner conducive to violation of the law or likely to result in any jeopardy to the peace, morals, health or safety of the general public. There shall be sufficient legal reason to deny a license if it is found that the place, building, or premises for which the license is sought has theretofore been used for selling alcoholic beverages in violation of law at any time during the six months immediately preceding the date of application, or has during that time been a place operated, used, or frequented in any manner or for any purposes contrary to the provisions of this Act or for any purposes offensive to public decency or morals. In the granting or withholding of any license to sell beer at retail, the County Judge in forming his conclusions shall give due and proper consideration to any

recommendations made by the District or County Attorney or the Sheriff of the county, and the Mayor and Chief of Police of any incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the Board.

“(e) In the event the County Judge, Texas Liquor Control Board or Administrator denies the application for a license, he shall enter his judgment accordingly, and the applicant may within thirty (30) days thereafter appeal to the District Court of the county where such application is made, and such District Court may hear and determine such appeal in term time or vacation and under the same rules and procedure as provided in Section 14, Article I, of this Act. In the event the judgment of the District Court shall be favorable to the applicant and an appeal is taken, a certified copy of the judgment shall be presented to the Assessor and Collector of Taxes who shall thereupon accept the fees required and make report to the Board in the manner required upon like orders issued by the County Judge. In the event the license is finally issued upon orders of the District Court and, upon appeal, the order of the District Court be reversed, then the mandate of the appellate court shall, without further proceedings, invalidate and make void the license authorized by order of the District Court, and the holder thereof shall, upon application therefor, be entitled to a refund of the proportionate amount of unexpired fees. So much of the proceeds collected for license fees under this Article as may be necessary for refunds herein provided for are appropriated for that purpose. Any person appealing from a judgment or order under the provisions of this Section shall give bond for all costs incident to such appeal and shall be required to pay such costs if the judgment on appeal is unfavorable to the applicant, but not otherwise; provided, however, no such bond shall be required upon appeals filed on behalf of the State.

“(f) Every person making application for an original license of any class herein provided, except

Branch Licenses and Temporary Licenses, shall be subject at the time of the hearing thereon to a fee of Five Dollars (\$5.00), which fee shall, by the County Clerk, be deposited in the County Treasury and the applicant shall be liable for no other fees except said application fee and the annual license fee required of him by this Act.

"(g) No person shall be authorized to sell beer during the pendency of his original application for a license, and no official shall advise or suggest that such action would be lawful or permitted."

"Sec. 26. Conviction upon criminal prosecution for any violation of this Article shall require assessment or penalty or penalties as provided in Section 41, Article I, of this Act."

Sec. XIV. That Subsections (a), (d), and (e) of Section 7, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, and Senate Bill 20, Acts of the First Called Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"(a) Any license issued under the terms of this Article, except Branch Licenses and Temporary Licenses specifically provided for, shall terminate one year from the date issued, and no license shall be issued for a longer term than one year. When it is desired to renew any license obtained under the procedure provided in this Article, the holder of such license shall make written application to the Assessor and Collector of Taxes of the county of the licensees residence not more than thirty (30) days nor less than five (5) days prior to the date of expiration of the license held by him. Such application for renewal shall be signed by the applicant and contain full and complete information required of the applicant by the Board showing such applicant is not disqualified from holding a license under this Act, and applicant shall pay to the Assessor and Collector of Taxes the appropriate license fee for the class of license sought to be renewed. The Assessor and Collector of Taxes shall thereupon transmit to the Board a copy of said application

for renewal together with the certification that all required fees have been paid for the ensuing license period; and upon receiving the copy of said application and certification as to the payment of fees, the Board or Administrator may in its discretion issue the license applied for, or may within five (5) days after receipt of such application reject the same and require that the applicant for renewal file application with the County Judge and submit to hearing before such County Judge in the manner required of any applicant for a primary or original license. Any applicant for renewal when such renewal is rejected by the Board or Administrator shall be entitled to refund of any license fee paid to the County Assessor and Collector of Taxes at the time of filing his application for renewal."

"(d) No license issued under the provisions of this Article shall be assigned by the holder thereof to any person; provided, that should any holder of a license desire to change the place of business designated in such license, he may do so by applying upon a form prescribed by the Board to the County Judge and receiving his consent or approval, but further providing that the County Judge may deny such application for change in the place of business for any cause for which an original application may be denied. Any such application may be subject to protest and hearing as though it were an original application. No additional license fees for the remaining unexpired term of the license shall be required of the applicant for change of location."

"(e) No licensee shall obtain any refund upon the surrender or non-use of any license for the manufacture, distribution, importation, or sale of beer except as otherwise provided in this Article."

Sec. XV. That Section 23, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended by the addition of a new subsection (n) to hereafter read as follows:

"(n) All funds derived from the sale of beer tax stamps shall be al-

located to the use and benefit of the Old Age Assistance Fund of the State of Texas."

Sec. XVI. That Section 24, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended as to Subdivisions (c), (f), and (g) of Subsection (1), and by the addition of a new Subdivision (n) of said Subsection (1), so that they shall hereafter read as follows:

"(c) Loans and Guaranties: To furnish, give or lend any money or other thing of value to any person engaged or about to engage in selling brewery products for consumption on or off the premises where sold, or to any such person for the use, benefit, or relief of said person, or to guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged or about to engage in selling beer at retail."

"(f) Allowances and Rebates for Advertising and Distribution Service: To pay or to make any allowance to any buyer for an advertising or distribution service."

"(g) Prizes and Premiums: To offer any prize, premium, gift, or other similar inducement to any dealer in or consumer of brewery products."

"(n) Administrative Authority to Relax: It is hereby specifically provided that the Board may by rule and regulation relax the restrictions contained in Subdivisions (c), (e), and (g) of this Subsection in respect to the sale or gift of novelties advertising the products of the manufacturer or distributor; as to gifts made to civic, religious, or charitable organizations; as to cleaning and maintenance of coil connections for dispensing draught beer; as to the lending of equipment for special occasions; and as to acts of a courtesy nature only; provided that such regulations shall establish definite limitations not inconsistent with the general provisions of this Section."

Sec. XVII. That the repeal or amendment of any section or any portion of a section of the Texas Liquor Control Act by the enactment of this bill shall not affect or impair

any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any cause before such repeal or amendment shall take effect; but every such act done, or right vested or accrued, or proceeding, suit, or prosecution had or commenced shall remain in full force and effect to all intents as if such section, or part thereof, so repealed or amended had remained in force, except that where the course of practice or procedure for the enforcement of such right, or the conducting of such proceeding, suit, or prosecution shall be changed, the same shall be conducted as near as may be in accordance with this Act. No offense committed and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time when any section or part thereof shall be repealed or amended by this Act, shall be discharged or affected by such repeal or amendment; but prosecution and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if prior statute, or part thereof, had not been repealed or amended, except that where the mode of procedure or matters of practice have been changed by this Act, the procedure had after this Act shall have taken effect in such prosecution or suit shall be, as far as practicable, in accordance with this Act.

Sec. XVIII. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in either Article I or II of this Act shall be held by the courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act,

(Pending consideration of the committee amendment, Mr. Little occupied the Chair temporarily.)

(Speaker in the Chair.)

Question: Shall the committee amendment be adopted?

NOTICE GIVEN

Mr. Hughes gave notice that he would on tomorrow, move to take up for consideration at that time, House Bill No. 627. Which bill was heretofore laid on the table subject to call.

BILLS SIGNED BY THE SPEAKER

The Speaker signed in the presence of the House, after giving due notice thereof, and their captions had been read severally the following enrolled bills:

H. B. No. 593, "An Act providing for the appointment by the District Judge of the Sixteenth Judicial District of Texas, composed of the counties of Cooke and Denton, or the Judge of the Judicial District of which the counties of Cooke and Denton are a part thereof, of an official shorthand reporter for such district; providing his qualifications; providing that the salary of said official shorthand reporter shall be fixed and determined by the judge of said district and not otherwise; providing for the manner of payment of said salary and out of what fund; providing for transcript fees and allowance for expenses as provided in Chapter 56, House Bill No. 276, Acts Regular Session of the Forty-first Legislature, 1929, which allowances, as now provided by law being fixed and established as a part of this Act; and declaring an emergency."

H. B. No. 567, "An Act making emergency supplementary appropriations for the support and maintenance of the Texas Liquor Control Board for the fiscal year ending August 31, 1941; for the payment of refund claims filed under the provisions of the Texas Liquor Control Act; providing regulations and restrictions in respect to the appropriations made herein; and declaring an emergency."

S. B. No. 280, "An Act authorizing any school district having an indebtedness in excess of six (6%) per cent of its assessed valuation in which is located a school building which shall have been condemned by certain authorities, to levy a tax of not to exceed Seventy-five (75c) Cents on the One Hundred (\$100.00) Dollars Valuation, etc.; and declaring an emergency."

RESOLUTIONS ON THE LIFE OF
HON. JOHN HENRY KIRBY

Mr. Howard offered the following resolution:

H. S. R. No. 228, Resolutions upon the Life of John Henry Kirby, by E. J. Fountain, attorney at law.

Whereas, It is needful when the institutions dear to free men are periled, to remember the lives and deeds of mighty men whose characters were forged by and dedicated to the institutions of freedom, so that their courage and faith, building and developing our country for the happiness and comfort of all mankind, shall renew faith and courage in other free men to defend and preserve the foundations and framework of our liberty, as in the bounden duty and high privilege of all free men; and,

Whereas, Remembering always that the institutions of the free men of this oldest democracy in the world, even oldest government in the world, are based on the Constitution of the United States, resulting, in its final form, in many compromises between free men; and,

Whereas, John Henry Kirby was a man who rose from poverty and humble circumstance to great power and rare achievement, because his country was free, and with great works labored to preserve and defend it in the freedom and liberty of all men; and,

Whereas, His deeds and his faith are examples to set afire in other men the faith and courage of freedom which have always been and are invincible against all enemies of freedom; and,

Whereas, This man's great life in its large outlines should publicly be told so that all may know it and feel its inspiration, but in considering it, remember that he believed in all of the Sermon on the Mount, and particularly verses seventeen and eighteen, which read:

"17. Think not that I am come to destroy the law, or the prophet; I am not come to destroy, but to fulfill."

"18. For verily I say unto you, Till heaven and earth pass, one jot or one tittle shall in no wise pass from the law, till all be fulfilled."

To commemorate the memory of John Henry Kirby, it is necessary to speak from the soul; to forget restraint; to love the Constitution; to believe in every word of the Sermon on the Mount, and to do right without regard of consequences.

Restraint in the fundamentals of his faith was alien to Mr Kirby.

Those fundamentals were the Constitution of the United States and the Sermon on the Mount. Restraint in the telling of his faith, and the deeds it fathered, would betray both the faith of Mr. Kirby and its lesson.

Mr. Kirby's deep faith created much for Texas. He laid the foundations for an important part of Texas industry, which has promoted the happiness and prosperity of Texas communities and institutions. He did much to create love for the Constitution, to create love among men for each other, and to order social and industrial relations in a Christian spirit.

When he considered himself right, he was reckless in what he said. To those around him in whom he believed his confidence was undaunted. Those whose lives did not fulfill his ideals, he either passed with a smile or complete silence. In his life, there were some he trusted and who were false; but Mr. Kirby turned from them with faith unshaken. There were those who disagreed with him in honesty and with high purpose. From such there was a parting of the ways; but in the end he and they knew that in fundamentals there were no differences. In men, who live like Mr. Kirby, fired by the faith of free men, courageous and able to turn their faith to works, lies the security of freedom.

To say the many things that should be said is a difficult task; this man's life was large, his activities many; and to understand his character and the meaning of his life many things must be considered.

In this resolution the deeds and the words of Mr. Kirby and his contemporaries should speak. The picture they paint, whether good or ill, should be the truth, and of its merit the people will judge.

His kind of life threw off restraints of dictators. It was akin to those lives that made the drums beat and the guns roar at San Jacinto. It was the same kind of a life that enabled that small band of patriots to defeat another dictator on that memorable day when Texas was born. His friends, without his knowledge, thought he should be sent to the United States Senate and thus follow in the footsteps of Houston, Coke, Reagan and others, the mention of

whose names bring to us the same feeling of reverence that we feel in a House of God.

Lumberman, lawyer, statesman, financier and philanthropist, the activities and interests of John Henry Kirby over a period of a half a century covered a widely diversified range of national scope. He was probably the best known lumberman in the United States and was recognized as one of the most valuable, most public-spirited and most widely loved citizen of the Lone Star State. From a farm boy on the Texas frontier to his position as one of the great industrial and civic leaders of the Nation, his life was a succession of hard-fought battles, and his well-rounded life of achievement and unselfish service should serve as an inspiration and a model for every citizen.

He was born in a log cabin near Peach Tree Village, Tyler County, on November 16, 1860. His father, John Thomas Kirby, was a pioneer citizen of East Texas, having moved to the Lone Star State in 1850. His mother was Sarah Payne, a member of a well-known Mississippi family. Her father, Nelson Payne, and his father, Johnathan Payne, both served with Andrew Jackson.

Mr. Kirby's early education was obtained at home under the able tutelage of his mother. Tyler County, at that time, was thinly populated and public and private schools in East Texas did not exist. He had progressed well in his studies at home and at the age of nineteen years his parents sent him to a country school for one term, after which he secured sufficient funds to enable him to attend for one term the Southwestern University at Georgetown, Texas. Here he met a number of other fine men who later made their mark on the professional and political life of Texas. Among his schoolmates were Robert L. Henry, Frank Andrews, R. A. Jahn and Judge R. E. Brooks. What stalwart schoolmates these were!

Following his brief schooling, he became a clerk for the Honorable S. Bronson Cooper, a member of the Legislature and later a member of Congress. Here, while investigating what other States were doing with their forests, he realized the value of

this State's own timber in East Texas. While in the service of Mr. Cooper he began the study of law since it was his desire to become a lawyer, and he applied himself to the task of securing an education along this line with enthusiastic determination.

In 1885 he was admitted to the bar at Woodville and engaged in practice there until 1890. Then, realizing the greater opportunities and facilities offered by a larger city, and foreseeing the rapid growth of Houston with its prospective deep waterway, Mr. Kirby moved to Houston. From 1890 to 1900 he engaged in the practice of law in that city, associating himself with the late Judge Edwin Hobby, father of former Governor William P. Hobby. Mr. Kirby's life from the time he left Woodville is the history of the lumber industry in the South, Railroading in East Texas as well as much of the industrialization of that great area. The beginning of that great history, even at this time, was already taking shape in his fertile mind.

This poor boy with no means except natural ability, willingness to work and a charming personality, soon arose step by step to lawyer, railroad builder and lumber magnate to aid materially in molding the foundation of the greatest industrial empire in the Southwest.

Mr. Kirby's great dream was the development of Texas. He realized then that transportation was essential, and not only transportation, but competition in transportation, to the development and prosperity of farms, industries and cities. He built and acquired railroads of his own; most important, he worked until he had induced a great trunk line railroad to build and purchase in East Texas, opening the markets of that vast railroad system to the prosperous farms, the humming mills and the mighty cities, which Mr. Kirby, in his dreams, already saw. In his own words:

"Prior to the sale of the Santa Fe in 1900, I was having certain difficulties in regard to the successful operation of that line and in connection with other roads. As the law then stood, and being a practicing lawyer, I thought I knew something about it, there was no public authority in this country that could

compel carrier corporations to establish divisions among themselves.

"At that time I had four mills, and, in order to get into the territory, had to pay local rate into Beaumont and then take the regular rate open to everybody, the public rate from there out to their destination, wherever they were going. That was a handicap and nobody wanted to build on my line.

"The Gulf and Interstate, from Bolivar to Beaumont, which was built by some ambitious Kansans on their way from the Gulf to Winnipeg, had been completed into Beaumont. That was my opportunity, and I bought the Gulf and Interstate. This was all prior to 1900. When I got the Gulf and Interstate, I approached all the railroads running into Galveston; the Santa Fe, the MK&T, and the I&GN, and the GH&H for divisions out of Galveston on my lumber originating in Beaumont and up on my line, and they accorded me liberal division. I hauled this lumber to Port Bolivar and ferried it across to the mainland and delivered it to these carrier lines under these freight divisions. I got practically all of the tonnage out of Beaumont, that is, all from the three big mills.

"The Gulf and Interstate had no traffic other than my traffic, and after the Southern Pacific had taken care of me on divisions, I didn't need it at all. During that period, Sam Laveris, of Sherman, Texas, a friend of mine, and who was Chairman of the Texas Pine Land Association, had become interested in a line from Conroe to Cleveland. It was called the Texas, Louisiana & Eastern. They built it from Conroe to Cleveland. It became involved in financial difficulties. I, as an attorney, represented the bondholders or most of them, and it was sold under that receivership and bought by the Santa Fe. After that, along in 1900, or late in 1899, I was first approached by Mr. Paul Morton, traffic manager of the Atchison, the Atchison System, as it was then called in the North, but now nearly everybody calls it the Santa Fe, who called on me in Boston to inquire about tonnage in East Texas, because I had the reputation at that time of being very well informed regarding the location of the trees

and what quantity of trees in those general localities.

"Well, to make a long story short he said the Santa Fe might be interested and he invited me to New York to meet Mr. Ripley. Of course, I knew of Mr. Ripley and I had probably met him casually before and I was very much interested in having a man of his broad vision and his devotion to the public welfare interested in my country down there. I met Mr. Ripley and a number of his associates, directors in the Atchison, at the Metropolitan Club in New York one night.

"I saw they were interested. So next morning on Mr. Ripley's invitation I met Mr. Ripley and some members of his executive committee at the down town offices of the Atchison, which according to my present recollection, was in 32 Nassau. I went into Mr. Ripley's office; General Aldace F. Walker, who was the Chairman of the Board and Mr. Ripley was president of the Atchison at that time. Mr. Victor Morawetz was there and Mr. Ed. Brewind was there, Mr. Fowler of the Jersey Central Railroad was there, Mr. Charley Steele of J. P. Morgan & Company was there in Mr. Ripley's office; some of them had not been present at the dinner the night before so Mr. Ripley had me go over the matter again, which I did, after which he asked me if I was prepared to make them a price and I said I was and I tremblingly named a price and I retired. An hour or so later, whatever the time was, when I came in again Mr. Ripley said: 'We have decided to take your property and go over to Mr. Morawetz' office and he will prepare a contract between us.' I was especially anxious to have the Atchison in there because it went into the lumber consuming territory. Of all the railroads in the United States that would be valuable to southeast Texas, especially the lumber interest to southeast Texas, the Atchison was that railroad.

"The Panhandle of Texas has no lumber at all. Oklahoma has a little on the eastern edge next to Arkansas, but it is not a lumber producing state, it is prairie. Kansas and Nebraska have no lumber. I was after the lumber market in that

territory as that is where the lumber was sold during those days.

"The sale to the Atchison was consummated about a year after I sold the Gulf and Interstate back to Mr. Shanghai Pierce.

"In the early days of my operations as a lumberman and as a railroad executive over in East Texas, I knew from my experience that it was very difficult to get car supply. Those lumber men over there were so hungry for cars they would load flooring on a flat car and take chances on the weather. It was very difficult to get cars. That was one of the reasons for my zealous desire to have the Atchison of all railroads in there, as I wanted an adequate car supply as well as a market. The Atchison reached the consuming territory and they brought enormous trainloads of grain and cotton to Galveston for exports or to the elevators there and they had the equipment, and they could send them out into the lumber territory and got a load back for it. In other words, they were hauling grain south from the very territory that I wanted to send lumber north to. The question of car supply was a very important matter to me as a lumberman and continued to be for long after I had sold my road. It remained important until about the War period, that is 1917 and 1918.

"I entered into a contract with the Atchison, Topeka & Santa Fe Railroad Company covering the sale of the Gulf, Beaumont & Kansas City and my other railroad properties over there, dated June 28th, 1900, and I also contracted with the Gulf, Colorado & Santa Fe Railway Company for the sale of ties, which is dated January 1st, 1901, which is the contract I have been testifying about. I organized the John H. Kirby Tie Company for the purpose of carrying that contract out. I think it was incorporated, but, at any rate, I had in mind utilization of the right of way timber in the making of ties so as to conserve the wood, because nearly every foot of the way from Cleveland to Silsbee was through timbered country and all the way from Jasper to San Augustine was in timbered country.

"Mr. Ripley and the others representing the Atchison at the time

they entered those contracts with me were also induced to make them so that they might acquire tonnage for the road. They were very much interested in the development of the country. Mr. Ripley was one of the far-seeing patriotic earnest men of the whole Republic in his desire to promote public progress and especially the development of territory served by his system of railroads. They were interested in the development of the country. They were interested in getting tonnage for the Santa Fe, and they were interested in securing a dependable source of ties. They were likewise interested in having their territory amply supplied with building materials in a big volume, because there were some big doings in those days, and Oklahoma was opening up for settlement and Kansas was making big progress besides, there was a general demand in Iowa, Nebraska, Colorado and Texas."

With free railroad competition assured, by the action of the Santa Fe, with the evils of monopoly avoided, with the markets of several rail systems secured, the door to development was open, and through that door Mr. Kirby walked, to play a dominant part in what followed. With him many cooperated; the result has been such that benefit has come to all. Mr. Kirby's activities have resulted in prosperity to the very railroads to whom he brought competition; and they too have cooperated with Mr. Kirby, and prospered as a result of his dream which he saw come true.

After he had sold his railroad, Mr. Kirby turned his attention to building a great lumber industry. Of course, this country boy who had made this way thus far in a free country had to have some financial help. He had to convince people with money that this country boy's dreams could come true; "that all men are created equal"—"We hold these truths to be self-evidence, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." This country boy's dream, if sound, was entitled to the same consideration as the dream of a rich boy. And so he worked out with some Baltimore

Bankers, and others, a plan whereby there were to be two companies; one, Kirby Lumber Company to run saw mills and manufacture lumber, and the other Houston Oil Company to own the land and grow the trees. A part of this plan was the great dream of conservation, whereby no timber less than sixteen inches in diameter was ever to be cut in the forests, with mills constantly humming in his East Texas.

The charters of both companies bear date of July 5, 1901, the day after the 4th of July. We know this great patriot must have been thinking about freedom, the freedom which made him and his plan possible, and shall make other men and plans like him and his possible, while his mind was on building an industrial empire.

But Mr. Kirby's plans for these two companies, his dreams for the conservation of the trees for the future of his beloved State, met with trouble.

By the action of the Baltimore Bankers his plan was hindered for a while, but it was never given up. And while only in part fulfilled, even to his dying day he still hoped to in some manner recreate the dream and yet have the great forests not slaughtered, but protected by the owners themselves. He felt that State protection was not necessary, for men should certainly protect their own natural resources, rather than be made to protect them.

Governor Sayers, later Master in Chancery of his company and of Houston Oil Company, in 1903 referred to Mr. Kirby as "The Father of Industrial Texas."

Shortly thereafter the original Baltimore Bankers wanted faster revenues rather than conservation, and because of such desire blocked Mr. Kirby's conservation dream. They wanted him to slaughter the great forests by cutting timber of too small dimensions for proper conservation principles, to constantly keep available in Southeast Texas the magnificent timber supply then existing. A dispute arose. Both companies were placed in receivership in the Federal Court at Houston, presided over by that great Judge and believer in justice, Waller T. Burns.

In this receivership the qualities

of Mr. Kirby which he later impressed so deeply upon the life of his State and Nation, and which we try in these resolutions to express, are beautifully illustrated.

In the group surrounding Mr. Kirby, who always believed all men honest and true until they proved themselves otherwise, were some unworthy of his trust, and there was an attempt to defraud the two companies of enormous quantities of land. At one hearing an unfaithful employee had thrown a gun on an adverse party, and the matter came before Governor Sayers as Master, and he had taken to wearing his gun for protection from the unworthy element. This came to the knowledge of Judge Burns. Like Mr. Kirby, he loved justice and right doing although at that time he and Mr. Kirby were scarcely acquainted. To be sure that the occurrences just narrated were not repeated, this great Federal Judge went on an errand, not an errand to be trusted to a Marshal or a bailiff or a clerk, because he wanted justice done always, to the lumber company's office, and left word that there should be no more such trouble.

Mr. Kirby, his life at times in danger, walked with head erect, purpose firm and courage high, got rid of the then unworthy element in his organization, and did his part to see that the properties involved were restored to the rightful owners.

Then came the time about 1908 to reorganize these industrial properties, and Mr. Kirby again turned to his friend, Mr. Ripley, for funds to see that all of the creditors of his company were paid. Mr. Ripley again accommodated Mr. Kirby and the matter was worked out. But the details of how Mr. Kirby got the money to pay off all those who were his creditors is minor. He paid his honest debts, including what he then owed the Houston Oil Company, with money he got from the Santa Fe Railroad.

Now, the years rolled on to war time; and Mr. Kirby stood with his industries in the front, producing timbers for ships, for railroads and other needed lumber products. He stood four-square that a man should do his duty by his country.

Again the years rolled. Mr. Kirby's

conservation dream was partly realized through a contract with Houston Oil Company; but Mr. Kirby no longer controlled that company; and the contract was about to expire. By further dealing with the Houston Oil Company, Mr. Kirby managed to continue further the conversation of Texas timber.

It is little wonder that such a man could achieve his objectives in dealing with others. His dealings with Houston Oil Company show us the man's quality. After the original receivership of both Houston Oil Company and Kirby Lumber Company, controversies existed between the two companies and many controversies unsettled were pending. It was the duty of Mr. H. M. Richter, as an employee of the Houston Oil Company, to make an estimate of the timber for the purpose of making a new contract with Mr. Kirby. Mr. Kirby, ever thoughtful of his minority stockholders, told Mr. Richter: "I will stand on LeMieux Brothers' estimate, whether over or below your estimate." When the settling time came the LeMieux estimate cost Mr. Kirby a quarter of a million dollars more than Mr. Richter's estimate; and Mr. Richter reports that Mr. Kirby never hesitated, but kept the letter of his word.

In the negotiations Mr. Kirby had many lawyers, including his old standby, Mr. John C. Logue. They were all conferring in a hotel in New York. Among others representing Mr. Kirby was a certain lawyer, a stranger to the regular company's retainer, who remarked that a claim against Mr. Kirby was barred by limitation. Mr. Kirby arose, asked the gentleman to withdraw and no longer represent him, and stated he would rely on his old friend Logue, and said: "So far as I am concerned, no honest claim is barred by limitation." And this man carried in his pocket a copy of the Sermon on the Mount.

Now, industrial strife commenced to arise in this country. Mr. Kirby gave considerable thought to this matter and what should be done about it, and finally one day he wrote the Ten Commandments of Industry. These are so worth preserving in these times when strikes are preventing us from getting ready to

face an enemy who has destroyed democracy after democracy that they should be quoted in full. They are:

"To Organized Labor

"1. Thou shalt not permit any of thy members to place the union card above our country's flag.

"2. Thou shalt not deny to any man, at any time, at any place, the right to work as a free man and to receive wages as such.

"3. Thou shalt not demand for any worker a good day's pay for a bad day's service.

"To Capital

"4. Thou shalt pay a fair living wage to each and every one of thy workers.

"5. Thou shalt furnish a safe and healthful place in which, and safe appliance with which, thy employees may work.

"6. Thou shalt operate thy business as continuously as its nature will permit, to the end that labor shall be regularly employed and that the public may not suffer for the living necessities furnished through the medium of thy activities.

"7. Thou shalt not demand extortionate profits, but shall be content with a fair return upon the investment used and useful in thy business.

"To the General Public

"8. Thou shalt willingly pay a fair price for all commodities required by thee from labor and capital, to the end that labor shall have a just reward and capital a fair return.

"9. Thou shalt pay thy taxes cheerfully and honestly to the end that the obligations of the State to all its people may be promptly and properly fulfilled, liberty and justice safeguarded and the general public welfare assured.

"To Everybody

"10. Thou shalt honor and love thy government, for it is the people's Government, the best ever devised by man, and there is none other like it in the world."

Mr. Kirby was blessed with contented employees; he gave them reason for content. At Christmas time he rarely failed to remember them, some 2,000 men and their families. Because of his great affection for

the Book of all Books, on one Christmas he gave to each employee a Bible containing this charge:

"The general diffusion of the Bible is the most effectual way to civilize and humanize mankind; to purify and exalt the general system of public morals; to give efficacy to the just precepts of all law; to emphasize the wisdom of all the relations of international, social and domestic life. To the Bible we are indebted for the progress made in true civilization and to its influence we must look for guidance in the future.

"The Bible is the light of the understanding, the joy of the heart, the fulness of hope, the clarifier of affections, the consoler of sorrow, the guide of the soul, the lamp of the feet, the light of the pathway, the telescope sent from heaven to reveal to the eye of man the way of life here and the amazing glories of the hereafter.

"I speak as a man of the world to men of the world when I say the Bible is the Book of Books and needs to be read at all ages in all conditions of human life. I gladly subscribe my sincere faith in and love for the Holy Bible and would commend it to the earnest perusal and affectionate regard of all my friends."

There came a time when the control of his company passed to others; and while the company did well in the sense of paying dividends, it did not do so well in its treatment of employees and bondholders. Employees were discharged right and left. The morale of the organization was bad. Bondholders became unhappy. Everything was unhappiness; everything was discontent. There was not the feeling of "love one another" that had been in this company when Mr. Kirby alone was in control.

At about this time too, his new associates convinced him that he should issue a personal bond issue of many millions secured by the bonds of the company. It has been said that this is the largest individual bond issue ever issued. It was, of course, paid promptly and fully; but during the period following that bond issue, the weakness and yet the strength was displayed.

Many imposed upon him, getting his endorsements, and getting his interest and money for their projects. For illustration, and this shows again the man living the life of the Sermon on the Mount—his endorsements for friends amounted to several hundred thousand dollars—when the obligations came due, his financial fortunes were beginning to fade. A bank filed suit against him. Mr. Logue, the lawyer mentioned above—when some one said he was the greatest lawyer in Texas, Kirby replied, "Remove the territory limitation and I will agree with you"—advised Mr. Kirby that he could win the lawsuit. Mr. Kirby replied that the bankers had loaned the money on his name, not the names of others, and the notes must be paid; that he could not pay them immediately; that Mr. Logue should work out a manner of extension.

The considered opinions of Mr. Kirby's fellow citizens show the man and his meaning to us. During his lifetime, many spoke of him, and to him in the manner of a few whose words are here reproduced:

Address by Charles F. Greenwood:

"It was there, on a little farm, that he learned the dignity of labor. It was there, amid the rural scenes of country life, that his imagination was first touched. It was there that his character was forming and his genius developing for the great future that awaited his restless energy. There, at Peachtree Village, the unquenchable fires of ambition began to burn in his brain. It was there, in a virgin forest, far removed from cities, from skyscrapers, from the busy marts of trade and the great congested centers of commerce and business, with his heart beating like a drum, that he caught inspiration from his environments and began his remarkable career. From that time on his progress has been onward and upward. His life has been guided by principle, and consideration for the rights and happiness of others. He has walked the highway of right. He has never bartered away his manhood for money or power. He has never bent the coward's knee that 'trift might follow fawning.' Whether on the mountain top of success or in the deep valley of sore distress, he has been sincere, valiant and true.

His every heart throb and pulse beat have been in harmony and with the glory and honor of his country. He is a statesman of the old school. He understands and knows how to value the philosophy of this Government. He is a patriot, and knowing him in the most intimate relation, I have no hesitancy in declaring that if emergency demanded, he would give up both life and fortune for the preservation of our free institutions."

Address by John T. Scott:

"Kirby is a man that cares but little, if anything, for the plaudits of men, but upon an occasion like this when we all speak from the depth of our hearts and tell in his hearing of his wonderful love, he is but human, and being human I know that he will appreciate it. He is a man that has always stood for the right. If there is a man in this country that can point to anything in Mr. Kirby's life or career, any transaction and say that 'that was not absolutely straight,' I have yet to hear it."

Address of Gen Jacob F. Wolters:

"Gentlemen praise the achievement of John Henry Kirby, they praise his stalwart patriotism and his philanthropy. I join in all that, but that I think which stands out most conspicuously in this man's life is this: Many men started with poverty and achieved riches and success; many men went from humble stations in life to the highest pinnacles of fame in our great nation; but few men have climbed the ladder of success, retaining the same human touch that distinguished the boy before he achieved success."

Address by Col. Louis J. Wortham:

"This man, whom we delight to honor on this occasion, is one of the rarest and best men I have known in Texas, or out of it. In my long career I have come in contact with many men who deserve to be called great by their fellows, and, while I have not measured accurately their distinguishing characteristics of real greatness, I shall not apologize for the sentiment I have just uttered that John Henry Kirby is the rarest and best of men, in the proper sense of those adjectives, I yet have known.

"This man has met 'with triumph and disaster' and treated both those imposters in the same way."

Address by Judge J. C. Hutcheson, Jr.:

"Kirby is such a lawyer as Burke immortalized in moving words when he spoke of the American colonists: 'Such men are acute, dexterous, prompt in attack, ready in defense, full of resources. In other countries the people, more simple and of a less mercurial caste, judge of an ill principle in government only by actual grievance. Here they anticipate the evil, and judge of the pressure of the grievance by the badness of the principle. They augur misgovernment at a distance, and sniff the approach of tyranny in every tainted breeze.'

"Such a man is John Henry Kirby. He does not wait until he sees our institutions uprooted before he springs to their defense. He does not wait until the desperate war cry has sounded, and men who stand for good government, with backs to the wall, have had to rally in their last defenses. He knows that eternal vigilance is the price of liberty now, as always. He sniffs the approach of tyranny in every tainted breeze. He insists upon respect for, and observance of the Constitution and the laws before that Constitution and these laws have lost their force through undermining. He is a great business man, a great patriot, a great administrator, because he is a great lawyer, and knows therefore, that if you wait to test a bad principle by its results, you have waited too long. He tests a principle by its inherent badness. He augurs misgovernment from a distance, and when he sees, as we are seeing now, the tendency of groups or organized minorities, I don't care what kind of groups they are or call themselves, whether labor or klan, or churches, or farmer, or what they are, undertaking to run this government for a group, by a group and of a group, it does not make any difference how apparently good the results of these new theories may temporarily appear to be, he declares that the foundations of the government are assailed, for he knows that when this government ceases to be of all the people, by all the people, and for all the people, it is no longer an American government.

"Ask me about Americanism and

who is an American? I will tell you who is an American. That man is an American who prefers hard liberty, to the easy yoke of servitude, who believes like John Henry Kirby does, in the fundamental principles of our government, tested and tried as they have been. Who knows, as John Henry Kirby does, that whenever this government becomes a government by, of or for Mr. Gompers, or by, of or for Mr. Anybody else, it is not a government of the American people.

"Now mind you, I have always been a friend of union labor; I have always been a friend of churches, a friend of the Baptist, the Catholic, the Jewish and all other churches; a friend of almost anybody who tries to do right; but whenever anybody or any group, sect, or class of people seek through organized minorities, to become the government, America is gone, and we know it, and I, and John Henry Kirby, and all you good Americans here and elsewhere are pledged eternally against them."

Address by Ex-Congressman R. L. Henry:

"And I come to pay my tribute as his friend in the days that have gone and his friend after he has wrought these great things for our native State. I congratulate him that he has risen to this high state among his fellowmen, and while we are celebrating his birthday, it but marks an epoch in this State when the sentiment will pour forth, that the expressions uttered here tonight are the expressions of Texas, and will preserve this State and the integrity of this Republic."

Address by Rev. Peter Gray Sears:

"'He is a man who really loves his friends,'—said a man to me the other day of Mr. Kirby. Yes; but more than that, I think. He counts his friends within the sweeping circumference of the whole of humanity. He really loves his fellow-men. He thinks and feels and acts in the terms of human-beings. And, as always, beneath the citizen, beneath the statesman, beneath the great lawyer, beneath the great leader of industry,—is the man; and it is the thought of his heart that makes the man; 'as a man thinketh in his heart, so is he.'

"It is just that fact,—the affectionate outdoing of his whole nature

for his fellowmen—that gives the peculiar charm to his personality. One of you at that table over there a few moments ago uttered in a spontaneous exclamation of four words the truth of what I am trying to state to you, the secret of his wonderful appeal to all of us who know him at all,—when you cried out:—‘Good Old John Henry!’ ”

Address by Jack Dionne:

“But this I know—regardless of theology, of creed, or of its lack—I always feel when I sit face to face with John Henry, that I am in the presence of a priest in God’s biggest, and best, and holiest church—the church of brotherly love.

“And because this man has gone through it all, seeing only his vision of what must come, and never doubted it seems to me that he is in the greatest and best sense a builder. More than an empire builder—more than a builder of great industrial things. He is a builder of faith in an age of doubt—and that is the greatest thing that a man can build.”

Address by Roy Miller:

“John Henry Kirby needs no eulogy. His achievements tell their own story. What he has done, and is always doing, for Texas and human kind in every walk of life is already written large and indelibly on every page of the history that records the glorious progress of our State and Nation for more than a quarter of a century.”

Address by Hon. Bill Lea, Mayor of Orange:

“Primarily, that is what John Kirby is, a high-minded man, a great citizen. There can be no more exalted distinction. He has never shirked a duty, and he has never tamely surrendered a right. That is why I honor him. That is why you honor him. That is what all this splendid testimonial speaks. Such is the find meaning of his career. Such is its lesson to us and to other men.

“It is a wonderful thing to have started as he did, a poor boy beset by obstacle and adversity, and to have arisen, while yet in the meridian of his life, to his commanding station in the business world and the public affairs of the nation.

“Only in this country, of all the world, is such an achievement pos-

sible. And this is why we ought to love our country more than we do, and why we ought to keep it always free, so that in the future other poor boys may have similar and equal opportunity.”

Address by former Chief Justice Nelson Phillips:

“I have spoken of him as an example of citizenship.

“I give you my conception of the true American citizen.

“He is the man who always wears his citizenship under his hat; who stands in no awe of power, and hence never hesitates to challenge power whenever it is abusive or oppressive.

“He may be a poor man, as frequently he is. He may be an obscure man, as oftentimes we find him in his highest type. But, thank God, he is always a proud man and a free man—too proud to lean as a supplicant in service dependence upon the bounty of the Government, too free to acknowledge that he is the mere ward of the State—a man so strong that the Government must look to him for its support, and is the subject neither of its succor nor its power.

“He is the man whose pride is that of a gallant, daring, intrepid manhood that bows to nothing on this earth by God and the wife of his bosom; a manhood that can undergo trial and yet be cheerful; that can attain success and remain unspoiled; and that knows how to be tolerant and charitable toward the weaknesses and failings of other men; a manhood without guile, cant or hypocrisy, that has no itching palm, and, above all things, has ‘that chastity of honor which feels a stain like a wound.’

“He is the man who lives and reveres the Constitution and because he loves it, obeys it, not just in precept but in practice; who knows that for the attainment of his Government under that great Charter the wisdom of sages was consecrated and the blood of heroes poured out; and that because thus rooted in sacrifice and devotion and founded upon eternal principles, this Government stands today the fairest and freest the world has known, with its flag everywhere the symbol of the holy thing of freedom.

“He is the man who despises the demagogue and his base attempts to

array one class of the people against another class. He knows that no class Government was ever a free Government. He is unwilling that in this country any class shall profit at the expense or suffer at the hands of any other class, and hence he recognizes here no classes save those of good men and bad men, true men and false men.

"He is the man who knows that in a free country conscience must be free; that without liberty of conscience, there is no liberty. That this means, among other things, that there shall exist here the free right of religious belief, and, more than that, the right to exercise that great privilege freely and without ban or proscription. He knows that one of the things for which our fathers came to these shores was the right to worship God according to the dictates of their own conscience; and among other things he is determined that right, here, shall, by the Eternal, remain free.

"He is the man who knows that this is a government of laws; that in its essence the law must be independent and fearless; and to the great end that 'none shall be so high as to be beyond its power, or low as to be beneath its care'; its administration must equally be in the hands of independent and fearless men.

"He is the man who prizes individual liberty. He remembers that there was such a man as Patrick Henry. He knows all the powers of government have been conferred and exist but to protect the liberties of the citizen, and hence he refuses ever to exalt the powers of government at the expense of the citizen's freedom.

"He is the man who knows that this is a Republic of States; that these States were designed to preserve the great principle of local self-government, ever the dominant passion of the Anglo-Saxon race—to safeguard and maintain the fundamental liberties of the people as the very substance of their happiness and welfare; and to this great and their sovereignty must remain forever unfettered and unimpaired.

"Hence, he reveres the memory of Jefferson Davis, Robert E. Lee and Stonewall Jackson, and that gray host who followed the gleam-

ing folds of the Starry Cross in its glory—the flower of an unmatched chivalry who in defense of this great principle on more than a hundred flaming fields found it sweet to die.

"He is the man who loves his fellow man; who wrongs no man; who is not envious of his neighbor's success and covets not his property; who believes in the nobility and dignity of hardwork; who is frugal, honest, industrious and sincere; and to whom the vanities of the world do not appeal and whom its follies cannot corrupt.

"He is the noblest product of American institutions and American life. To have produced him is our chief glory as a people. To preserve him with all his sturdy qualities as the type of American manhood for generations yet unborn, is our highest trust and responsibility.

"I have attempted to give you the substance of his creed. It is the creed of John Kirby and men like him. He has lived up to it and typified it as well as any man I know. And because he has, he deserves and possesses the proud rank and station of a Great American Citizen."

When Mr. Kirby came to Houston in 1890 he found there, or they came shortly thereafter, John T. Scott, B. F. Bonner, John S. Bonner, T. W. House, J. P. Frost, J. S. Rice and Wm. M. Rice, R. A. Welch, Captain J. C. Hutcheson, George Hamman and a little later John Hamman, Colonel Thos. Ball, Jim West, Jesse Jones, R. M. Farrar, Frank Andrews and others. These men each learned the traits of the others; they traded; they built, they conversed; they cautioned Kirby; and they built Houston—its ship channel and its industries. They built Houston and its ship channel and its industries, so that today we have a City of nearly a half million people, producing natural resources, such as sulphur and oil, and manufacturing war materials, and other products for the maintenance and protection of democracy.

The only public office Mr. Kirby ever sought was, and he was elected to serve two terms, as a Representative in the lower House of the State Legislature from Harris County. He was a man charitable to the extreme.

Many are the young men and women of this State that he loved so well who have been educated by his purse. To show his charitable instincts we remember a little story that happened on the very floor of this House. When he was in the Legislature the second time his financial strength was beginning to wane, yet until near the end of the session he did not draw a penny of his pay or allowances. Then one day he sent for the Sergeant of Arms to bring him his checks. He endorsed everyone of them and laid them on the desk of a fellow member, sick, and merely remarked: "Jim, take these and get well."

His charities to school children were innumerable. No one could count the number of prominent Texas citizens educated from his purse.

Of course he loved his neighbors and they loved him. Many festive occasions were had in and around the old home place, when Mr. Kirby would get out the old fiddle and entertain visiting neighbors.

Lumber was his business; and it was only his great passion and deep devotion to the Constitution of the United States that brought him so many times into the political limelight, ready to defend the tenants of that great document with his life-blood if necessary.

When President Roosevelt's New Deal came into power to destroy, if possible, the same things condemned by Mr. Kirby's ten Commandments to Labor, and other evils, Mr. Kirby saw in the New Deal a treat against the Constitution that he loved so well, and believed in so much. During this period the man's great love for the Constitution burst into full flame and was oft expressed in public speeches.

At about that time a casual conversation was had between Mr. Kirby and Former Chief Justice Nelson Phillips of our Supreme Court, and a great lawyer from North Texas. In that conversation those two stalworths predicted a bureaucracy created by the New Deal, the attack on the Supreme Court, the reversal of many precedents, the democracy's trouble in Europe, the destruction of many democracies. Such minds! Such predictions! But may we further state

that those minds likewise predicted America would survive, and democracy would live?

The political incidents of a period are not significant; the faith that guided his whole life, and his courage and alertness to defend it, are lessons in the meaning of this United States, a revelation of the reasons for our Country's greatness, and admonitions for us all. Let us hear his own confession of faith:

"It is the right to believe that Jesus Christ is the son of God without the consent of the Jews; it is the right to believe in all the miracles of the New Testament without the consent of the materialists; it is the right to be a Christian without the consent of the Jews and the right to believe in Judaism without the consent of the Christians; it is the right to be a Catholic without the consent of the Protestants and the right to be a Protestant without the consent of the Catholics; it is the right to be sprinkled without the consent of the immersionists and the right to be immersed without the consent of the sprinklers; it is the right to worship God in accordance with the dictates of one's own conscience or not to worship Him at all, without the interference of Government, the citizen alone being responsible to his God for his spiritual views and conduct."

Again, he said:

"When the labors of life opened before me and the road was new I learned to revere the Constitution and to rely upon its promises. I want to see those who come after me spurred on by its incentives and assured by its safeguards. We do not need encomiums for it; we do not need praise for the dead whose wisdom and sacrifice secured it. We need an awakening trumpet to rally the living to it.

"We need resistance to a perversion of the taxing power, to the subordinating of individual energy of mind and hand, to the disbursement of public funds which subsidize a people's faith, to the assessment of penalties outside of a courtroom for an offense never listed in a law book.

"The call is to every patriot in this broad land who loves Liberty and Right and the Flag, and verily the Constitution itself for it is that

which gives his Country its power and the Flag its purpose. Concord is looking down through the years, Washington is watching, Jefferson is pleading. Will we vindicate our history? Will we conserve the rewards of our struggles? Will we guard the Government established by the patriots for our happiness and dedicated to our Liberty? Without our Constitution we die; with it we live on forever to lead mankind in the way of achievement and of eminence in civilization and to the heights of an ordered Liberty and noble National Life."

At another time, these were his words:

"The Constitution found the American free with vested rights in his own living. It safeguarded those rights—every one of them. It recognizes his time, and toil, and talent as his own. It protects him in his honestly acquired property and goods, and leaves the border of his energy as the limit to his production and possessions. It recognizes his right to order his own affairs in matters of personal habits and private business, as antedating the formation of any state and transcending the just powers of any government.

"That is our faith! To pervert it is to desecrate the Constitution, assail the noblest form of government ever devised, and deliver Liberty into the hands of those who would crucify it.

"Capitalism has not meant 'A perfect day.' Human frailties have existed and they will always exist, making it necessary to provide certain safeguards against any indifference to the principle of fair play. Progress towards Justice has been steadier and has gone farther under our system than under any other system in any other land. We hear vaporings of a finer welding of human interest with the government, of social face-lifting and benevolent adjustments. But bureaucracy is colder than pagan charity. It cannot be moved by a heartbeat or touched with a tear. In its metallic grasp it crushed hope and liberty.

"We don't want it.

"The thundering voice of reason calls for the re-Americanization of

America. The need is for stalwart, self-reliant, red-blooded, two-fisted men with the jam-poles of Liberty, to release the beaver-dam of Communism obstructing the stream of industry. Fugitive power, exercised outside of the Constitution, is as threatening as the lightning bolt hurled angrily from a beclouded sky.

"Our present need is to set the stakes of the Federal Government back where the Imperial Surveyors, the Fathers of the Constitution, placed them. If the sovereign rights of the States, and the individual rights of the citizens were re-established; if the investors were assured of a sound dollar, and the business man guaranteed that the profits of his employed savings would not be consumed in confiscatory taxes levied for unconstitutional pursuits or commandeered by the 'Sinclairrats' for the social purpose, there would be a revival of activity in this land with the fervor of a religious camp meeting.

"It is faith that we need."

At one time he declared as follows:

"A safe mariner will watch his chart, and likewise a thoughtful American will keep an anxious eye on his Constitution. If we are to enjoy the blessings vouchsafed to us and our posterity by that instrument, we should know its promises, its principles, its philosophy, its guarantees, and guard each and every one of them with sleepless vigilance.

"We are free in this country because our forefathers who had an intelligent concept of their rights, rebelled when those rights were infringed. We are free because the Government they established—after winning their independence—embedded those rights in the Constitution. But we may not be free for we stand a chance to be deprived of our rights and lose our incentives to toil and achievement, if we permit the vicious or the foolish to destroy that Covenant.

"The Constitution is still an anchor of safety holding securely against all threatening winds and waves. It is still the foundation of the greatest, the freest, and the best Government ever established on this earth. The safeguards, the inspiring promises, and the hopeful incen-

tives which it gives are responsible for our past amazing progress.

"I plead for a preservation of it in its full vitality and vigor, not on account of its age or origin, though it is the product of a great age and a noble people, but because of the profound truths, the program of safety, to which it is committed. These are not dead but living things; they are as essential in the future as they have been in the past. Principles never die but live on forever."

At another time he stated:

"The Constitution stands supreme over all power. Congress is its creature, and to legislate where there is no grant is usurpation and immoral and tyrannous. Every citizen enjoying the manifold blessing of the Government erected for him, is obligated to defend the Constitution which is the 'law and the prophets' of his Government. Upon that defense depends the preservation of our Liberty. To surrender the Constitution is as cowardly as to surrender the flag. The same noble spirits gave birth to both. If one should perish, the other must die. 'Resistance to tyranny is obedience to God.'"

Mr. Kirby's theories of government, his beliefs on rights and wrong were firmly fixed in his mind and he held rigidly to them. If today he could see these theories help lead this Nation, honorably and without bloodshed, away from these troublesome times and back to the arms of beautiful democracy created by our forefathers, it is certain that his infectious smile would again light his face as it frequently did while he lived.

Long before our present troubles began to crystallize, this farseeing man recognized them and frequently talked about them. He said:

"For ten years, as you know, I have been sounding a note of warning against the tendencies. I do not agree with Senator Bailey that we can face the presidential election of 1924 without apprehension. Of course, if the two nominations he mentions are made, that is another proposition. All of us could go forward with confidence that, insofar as the executive branch of this Government was concerned, it could be conducted under the law and under

the Constitution with no attempt to dethrone this Republic.

"More than that, there are fifteen million radicals in this country who believe in the dogmas of Socialism, dogmas that are diametrically opposed to the structure of this Government and the principles in which our forefathers believed. And the trouble about it all is that these fifteen million men are just as serious as we are. They want to promote human happiness and they really feel that there will be no happiness until the Government owns everything and does everything, and the people own nothing and do nothing.

"These fifteen million radicals are not all. The colleges and universities of this Republic today are a menace to the Republic itself. There is hardly one of them—well, that is not a fair statement, but many of them—far too many of them—teach Socialism as a sound governmental philosophy. Not only in the colleges and universities is that done, but in our high schools it is done. Over in Texas we have a work on civics written by Professor Ashley. Professor Ashley contends that Thomas Jefferson and that bunch of patriots that met in Philadelphia in 1776 and announced to the world that all men are endowed with certain inalienable rights, among them the right to life, liberty and the pursuit of happiness, were a bunch of fatheads. Professor Ashley knows to the contrary, that no man is endowed with a right of which he cannot be despoiled by the majority. The guarantees of the Constitution, the patriots who advocated them, the declarations in that great document, the Declaration of Independence, and all the system of government we have erected thereupon upon the theory that liberty was the dearest possession a citizen had, and that the Creator had endowed each one of us with certain rights, inalienable, that is, we could not give them up, nor could they be taken away from us,—that doctrine, preached by our forefathers and adhered to for a hundred and fifty years in this country, and recognized by the intelligent and sound all over the world, in the mind and thought of Professor Ashley is a lot of bunk, and that is what he is teaching our

boys and girls in the high schools of Texas,—it is possibly being taught here. School books are selected by the Government and other State officials representing the school board of that State, who prescribe the textbooks which shall be taught in your public schools and in your high schools, and your colleges, and universities that receive any State support.”

With the advent of the depression and the New Deal, his troubles multiplied and he lost the aid of his beloved and true adviser, John G. Logue, who died in 1933. Long after the lumber market justified, he continued to run his mills that his employees might have food, clothing and shelter.

His love and affection for his employees was so great, his desire to maintain the organization created by him so intense, that he permitted these mills to run long after good business judgment permitted.

His personal fortune exhausted by his charities, endorsements and aid to his friends, he now turned to his friend the Santa Fe Railroad for additional funds to carry on.

During the depression he borrowed nearly three million dollars (\$3,000,000.00) to pay the wages and salaries of his employees. Finally the end came about May, 1933.

The Kirby mills were now still and his all was swept before him. Yet he never lost his smile nor his love for the Constitution and what he thought was right.

Now, his enterprises tottering on toward bankruptcy, came into the picture his friend, B. F. Bonner, and together they tried to organize some companies to pay Kirby's honest debts and save his equities. For a while it looked like the effort would be a success, but values were falling fast, the bank holiday came along and bankruptcy was the only recourse.

Following that came the placing of his company in a receivership in Judge T. M. Kennerly's Court. McDonald Meachum was appointed receiver. He saw to it, as receiver, that Mr. Kirby's organization was maintained intact.

When, at this time, social security became a burning issue, Mr. Kirby

again plunged into the fray and wrote the following on that question:

“We need not challenge the sincerity of those who would make the government responsible for the social security of the citizen. Perhaps they mean well. But their plans strike at the life and character and Constitution of our country.

“All of us agree that it would be desirable to have every person in the United States fullfashioned and well-provisioned. That would make America a paradise. But ‘The more abundant life’ of which we hear so much will not result from statutory or government ordered prosperity. It will come as it has always come from the efforts of willing, intelligent, persevering workers striving in a free field to overcome circumstances and secure a more favorable situation for themselves.

“The Constitution has established the best form of government ever devised by mortals for the promotion of man's well being. Monuments of achievement erected under it astound those whose genius have contributed to the progress of other lands. It has provided more comfort, and greater security, and a choicer economic reward than has ever been obtained everywhere else by any known system. With the Constitution as a plan, America, embracing a little more than 6% of the population of the globe has the buying power of all Europe. Four-fifths of the comforts and conveniences that make life easier are found in the homes of America.

“Our record of achievement, in a free economic and industrial field should put those to shame who are taking advantage of a period of international depression to attack our incomparable institutions and attempt to undermine and destroy our form of government.

“Neither my heart nor my judgment will permit me to remain silent while these unwarranted assaults are being made. The changes proposed will slow down individual achievement, weaken the national character, and put liberty on the spot. The government was created to safeguard the citizen in his inalienable rights, not to fix an ‘attainment allowable’ for him. Those rugged patriots who

fought the Revolution poured out their blood and treasure for the privilege of governing themselves. They claimed the possessions they had worked for and the right to enjoy them.

"Read these words from the declarations they issued after going to war with Great Britain:

'We fight not for glory or conquest' but 'for the protection of our property, acquired solely by the honest industry of our forefathers and ourselves.'

"When the Constitution was established, the hero who commanded the Constitutional forces presided over the convention, and the faith that burned in the bosoms of his soldiers on the battlefield pervaded that hall where imperial minds were assembled to form a new government. A Republic was erected because that was the choice of most of the delegates, and the effort was made to provide barriers against every possible encroachment upon the private rights of the citizen. James Madison said safeguarding liberty was the primal object of the Convention.

"No provision was made for the establishment of a government bureau to look after the social security or private well being of the individual. Nationally incubated life was not in the plan. Some insist that the General Welfare clause of the Constitution provides for these socialistic and communistic activities. But that position was shattered at the beginning of government under the Constitution by those who established it.

"That eminent jurist, Judge Story, said: 'If the power to tax to provide for the common defense and general welfare was a substantive power the government of the United States is, in effect, a government of general and unlimited power.'

"All outstanding statesmen, including James Madison, Andrew Jackson, James Monroe, Alexander Hamilton, and Chief Justice Marshall said the Powers parted with by the states were few and enumerated.

"The proposed system of bureaucratic planning and government is without constitutional sanction and features of it are without economic reasoning. To bring about a more abundant life by forcing a reduction

in the supply of human necessities is a strange and foolish contrariety. It demobilizes a tremendous productive force including millions of American laborers and millions of American dollars. Never before in the history of the world was scarcity required by the government to compel a situation of plenty.

"It may be an intricate problem to get an equitable distribution of a full production. But it is more difficult to spread an abundant table where the supply of foods is short.

"Planned economy, ordered life, fixed security, all of the heralded schemes by would-be sociologists, opportunists, and college-tailored adjusters, are unconstitutional, un-American, and unproductive of favorable results. They will asphyxiate forces that keep the wheels of commerce spinning and factory furnaces humming. They will impoverish a mighty army of agricultural workers. They will permanently increase unemployment and render the situation more distressing in a land that has known a more abundant life than ever existed anywhere else on this globe.

"The control of the soil by the Federal administration strikes at a principal deeply rooted in the American heart. It doesn't belong under our flag.

"Judge Story said: 'In a free government almost all other rights would become utterly worthless if the government possessed an uncontrollable power over the private fortune of every citizen.'

"But it doesn't possess that power.

"Those men who wrote our great charter of government were not impractical men or politicians. They labored by the light of history, and avoided with meticulous care the errors made in other attempts at free government. The bureaucratic despotism and unwise economic planning of Constantine and Diocletian were known to them. Madison and Franklin and others of them were familiar with ancient history and all the attempts to establish and maintain so-called Democracies in the old world. Drawing their inspiration from a fountain of wisdom and knowledge and experience they formed a compact suitable to self-dependent, rugged redblooded men.

It was a government of opportunity and not of paternalism that they formed.

"The late Woodrow Wilson spoke for the real American when he said:

'I do not want to live under a philanthropy. I do not want to be taken care of by the government. I want only to have right and justice prevail . . . Give me right and justice and I will undertake to care for myself. I will not live under trustees if I can help it. I do not care how wise or patriotic the trustees may be. I have never heard of any group of men in whose hands I am willing to trust the liberties of the American people.'

"We need that sentiment at this hour when so many of our countrymen are consenting to a system of Federal regimentation. The domain of Liberty has no room in it for the footprints of a bureaucratic trustee. We should breathe again the spirit of the Pilgrims who established their own social security in an unfriendly wilderness. We should move to repossess the courage of those men who crossed the icy Delaware that winter's night to fight for their rights with Washington.

"Without that spirit we still grow weaker and more dependent. With it we may look out upon this broad, beautiful, and productive land of ours, the home of the brave and say:

'My Country, 'tis of Thee
Sweet land of Liberty
Of Thee I sing.'

"Freedom is our birthright. When it was first challenged on this continent Washington defended it with his sword. When it was again threatened by anarchy in those days following the gaining of our independence, that great citizen and soldier lent his wisdom to his Country and aided in establishing the Constitution in which liberty was safeguarded."

Although bitter in his denunciations of the New Deal policies, John Henry Kirby had great faith in the future of his country and in an address before a Jefferson Day Dinner in Houston on April 14, 1934, declared:

"Perhaps some of you think that constitutional liberty is menaced by the brain trust, by the college professors, by socialistic experimenta-

tion by red Republicans of mediocre attainments who occupy seats in the cabinet, by red Republican senators who assume to give advice to the President, but I say to you, 'Be ye not afraid.' There is in the White House a patriotic American of sound judgment and high purposes. In his good time he will sweep away the shadows that menace and restore the republic, and with it the effectiveness of every provision of our federal Constitution, to the end that Constitutional liberty may live on forever."

Shortly after that when attacks were being made on the Supreme Court, public sentiment had it that Mr. Justice Frankfurter, then Professor of Harvard Law School, was advising the President and Mr. Kirby evidently believing this, said in one of his public speeches:

"From the day that George Washington was sworn in as president of the United States, down to Herbert Hoover's retirement, the Constitution was America's compass and guide. Every chief executive had taken an oath to preserve, protect and defend it, and every one had honored that oath. But the instrument is now without favor in the highest administrative circles and there is being extended the purpose to govern us, not according to its terms but by the everchanging and arbitrary rules of an irresponsible, impractical, foreign-minded Brain Hierarchy."

When the United States Supreme Court invalidated the N. R. A., Mr. Kirby felt his convictions had been sustained. He and his friends held a victory meeting to celebrate the occasion. It is interesting to notice the account of his speech at this meeting, written by a friend of all lumbermen, Jack Dionne, as follows:

"The Supreme Court decisions holding the NRA unconstitutional opened the door of hope for all America,' said John Henry Kirby, in his address at the Southern Pine meeting in New Orleans, June 3. 'The depression aggravated and prolonged by the unconstitutional measures of President Roosevelt, acquiesced in by the Congress, is ended. What the country is suffering from has been not the depression, but the 'oppression' emanating from a bureaucratic government at

Washington. If the unanimous decision of the Supreme Court, holding the National Recovery Act unconstitutional, means a return to a government of laws under the Constitution, and an abandonment of government by bureaus, boards, commissions and administrations, then it will not be long until prosperity will diffuse itself throughout all industry, and there will be a full return of remunerative and gratifying employments.

"We still have grave problems before us as citizens and as members of the lumber industry, which cannot be minimized. I agree with all Mr. Sheppard and Mr. Kurth have said advising against reducing wages and lengthening hours of operation. It would be a tragedy, indeed, to permit a return of conditions in our industry that would minimize the rewards of labor and put our neighbors and competitors on the pauper list.

"Mr. Kirby asserted that undue lengthening of operating time by mills would bring an excess of production, and result in a decrease of the price of lumber below production costs. 'This would mean misfortune for the producers, their employers, their communities and their people' he said. 'I am confident the members of the Southern pine industry in the present situation will do nothing to militate against the welfare of their neighbors or of the people of this country or our government.' In concluding Mr. Kirby said:

" 'The makers of the Constitution of the United States 150 years ago knew what they were doing. The Constitution they formulated served for the promotion of the people's welfare and progress then and it serves just as effectively today. That was in the 'horse and buggy' days that the Constitution was formulated. The makers of the Constitution wrote into it adequate protection and guidance of virtually every essential interest and activity of the people and under that document the American nation, in 150 years, has come to the highest achievement of any nation or people on earth. The President of the United States is the only officer in the entire government who must take an oath to 'preserve, protect and defend' the Constitution of the United States. All other of-

ficials in any other branch of the government take an oath merely to 'uphold' the Constitution.'

"The speaker praised the Supreme Court's decision on NRA and criticized some of the theories of government now being advanced by 'some of the young men' advisers of President Roosevelt."

When the time came to reorganize his lumber company, the Santa Fe had been held by all the Courts in the land to be the owner of the majority of the stock. There were outstanding bonds and there was outstanding stock but common claims and laborers' claims had been paid off during the receivership.

Rumblings came in from all over the country that the bondholders were about to form a bondholder's committee. Mr. Kirby sent for the lawyer handling the reorganization and instructed him that there should be no bondholder's committee; that the expense was unnecessary and that all must be treated fairly. In the meanwhile the confidence of the Baltimore Bankers in Mr. Kirby had been restored, probably by the matter reflected by Mr. Richter, but in any event they helped in seeing that no bondholder's committee was organized in their fair city where many of the bonds were held. One large bondholder was a metropolitan city, and the bonds were held in trust to cut grass on beautiful parks, where growing Americans might play. Another was a competitor railroad. Both the bondholders stood with Mr. Kirby and the Santa Fe for fair play to all.

The Santa Fe and Mr. Kirby concluded that everybody's rights must be protected. Judge Kennerly, and Senator Meachum as Receiver, likewise felt that everybody's rights must be protected. The Southern Pacific Railroad Company owned a large group of these securities and they aided much in securing confirmation of a proper plan. And that is what was done.

Among other problems in this reorganization were the difficulties brought about during the period when temporary owners had Mr. Kirby's property, and bonds were sold at less price than the sinking funds paid for them. This bonded indebtedness has since been paid. The stock has gone up. The mills

are running, and the employees are happy again.

By then Mr. Kirby was old and feeble and unable to start a new industry. His bankruptcy had finished him. An old age pension was suggested but the Santa Fe, not wishing to embarrass him, arranged an honorable position for Mr. Kirby without serious duties, and with a proper salary.

Mr. Kirby fast neared his end. On his last trip back to the sand hills and piney woods, where this man who loved his Constitution and his God was born, he said to his faithful negro servant, "Before we leave, let us look around good. We won't be coming back." He died in the quiet of the evening on November 9, 1940.

On his desk was found a little speech by Senator J. W. Daniel on the unveiling of the recumbent figure of General Robert E. Lee. It is only fitting that the following quotation from his speech so often read by Mr. Kirby be given:

"Come we then today in loyal love to sanctify our memories, to purify our hopes, to make strong all good intent by communion with the spirit of him who, being dead, yet speaketh. Come, child, in thy spotless innocence; come, woman, in purity; come, youth, in thy prime; come, manhood, in thy strength; come, age, in thy ripe wisdom; come, citizen; come, soldier; let us strew the roses and lilies of June around his tomb, for he, like them, exhaled in his life Nature's beneficence, and the grave has consecrated that life, and given it to us all. Let us crown his tomb with the oak, the emblem of his own strength, and with the laurel, the emblem of his glory, and let these guns, whose voices he knew of old, awake the echoes of the mountains, that Nature herself may join in his solemn requiem.

"Come, for here he rests, and—

'On this green bank, by this fair stream,

We set today a native stone
That memory may his deeds
redeem

When like our sires, our sons
are gone.'

"Come, for here the genius of loftiest poesy in the artist's dream and through the sculptor's touch, has restored his form and features—

a Valentine has lifted the marble veil and disclosed him to us as we would love to look upon him—lying, the flower of knighthood, in 'Joyous Gard.' His sword beside him is sheathed forever. But honor's seal is on his brow, and valor's star is on his breast, and the peace that passeth all understanding descends upon him. Here, not in the hour of his grandest triumph of earth, as when mid the battle roar, shouting battalions followed his trenchant sword, and bleeding veterans forgot their wounds to leap between him and his enemies, but here in victory, supreme over earth itself, and over death, its conqueror, he rest, his warfare done.

"And as we seem to gaze once more on him we loved and hailed as a chief, in his sweet, dreamless sleep, the tranquil face is clothed with heaven's light, and the mute lips seem eloquent with the message that in life he spoke:

" 'There is a true glory and a true honor; the glory of duty done, the honor of the integrity of principle.' "

Now, let it be resolved by the House of Representatives of the Legislature of the State of Texas:

First: That the people of Texas and of this Nation should pledge to ourselves, our children and the spirit of our departed friend, that we, common inheritors with him of the institutions of freedom, rededicate ourselves in his example to their preservation, with courage and faith, to the ends that men shall continue free, that others like him may live and achieve, that all shall be secure in life, liberty and property, that all men may have and feel the duty and privilege of independent effort, and life justified and sustained by service to fellowmen and country;

Second: That we hope and pray that our great leader will bring us back, as Mr. Kirby predicted, so that our "precious rights vouchsafed to us and to our posterity under our Constitution shall never be abandoned;" and,

Third: That we shall all remember our Constitution and our God, and live by Constitutional and Religious thinking, as did John Henry Kirby, praying that we shall not be called upon to fight the bloody battles such as have been fought to make us free, but with courage and

faith to lose our lives, if need be, to find them; and,

Fourth: That all citizens should, like John Henry Kirby, be keenly watchful of our Governments, and all branches thereof, to see that men with the spirit of Washington and Jefferson write and execute its laws, and men of the intellect and judgment of Marshall and Storey interpret them, to the ends that all that is done shall be done in the way and for the ends of freedom, that our institutions shall not be sapped from within or injured from without, and that all in public life who walk not in the way of freedom, and work not for its ends, shall be discovered and destroyed; that we all stand by these convictions.

Fifth: Returning to the meeting of ex-Chief Justice Phillips, Mr. Kirby, and a friend, they likewise predicted that this country would finally save democracy again, and that all would be well, and like, as stated by our Savior in the Sermon on the Mount:

"18. For verily I say unto you, Till heaven and earth shall pass, one jot or one tittle shall in no wise pass from the law, till all be fulfilled."

Mr. Kirby said:

"God forbid that one jot or tittle of the precious rights vouchsafed to us and to our posterity under our Constitution shall ever be abandoned. Perhaps some of you think that constitutional liberty is menaced by the brain trust, by the college professors, by socialistic experimentation, by red Republicans of mediocre attainments who occupy seats in the Cabinet, by red Republican Senators who assume to give advice to the President, but I say to you 'Be ye not afraid.' There is a patriotic American in the White House of sound judgment and high purposes. In his good time he will sweep away the shadows that menace and restore the republic, and with it the effectiveness of every provision of our federal Constitution, to the end that constitutional liberty may live on forever."

May his prediction, his prayer, be realized.

Sixth: This resolution is a mark of respect for this Grand Old Man of Texas, and is a record of our love and affection for him to be spread

upon the Minutes of our proceedings and published in the House Journal, and a copy thereof sent to Mrs. John Henry Kirby at Houston.

HOWARD,
MORSE,
MONTGOMERY,
WINFREE,
HEFLIN,
TURNER,
BURNAMAN,
CROSSLEY,
ALSUP,
LYLE.

The resolution was read second time.

Signed—Leonard, Speaker; Allen, Allison, Anderson, Avant, Bailey, Baker, Bean, Bell, Benton, Blankenship, Boone, Brawner, Bray, Bridgers, Brown, Bruhl, Bullock, Bundy, Burkett, Carlton, Carrington, Cato, Celaya, Chambers, Clark, Cleveland, Coker, Mrs. Colson, Connelly, Craig, Crosthwait, Daniel, Davis, Deen, Dickson of Bexar, Dickson of Nolan, Donald, Dove, Duckett, Dwyer, Ellis, Eubank, Evans, Favors, Ferguson, Miss Files, Fitzgerald, Fuchs, Gandy, Garland, Gilmer, Goodman, Halsey, Hanna, Hardeman, Hargis, Harris of Dallas, Harris of Hill, Hartzog, Helpinstill, Henderson, Hileman, Hobbs, Howington, Hoyo, Huddleston, Huffman, Hughes, Humphrey, Hutchinson, Isaacks, Jones, Kelly, Kennedy, Kersey, Kinard, King, Klingeman, Knight, Lansberry, Lehman, Leyendecker, Little, Lock, Love, Lowry, Lucas, McAlister, McCann, McDonald, McGlasson, McLellan, McMurtry, McNamara, Manford, Manning, Markle, Martin, Matthews, Mills, Moore, Morgan, Morris, Murray, Nicholson, Pace, Parker, Pevehouse, Phillips, Price, Rampsy, Reed of Bowie, Reed of Dallas, Rhodes, Ridgeway, Roark, Roberts, Sallas, Senterfitt, Sharpe, Shell, Simpson, Skiles, Smith of Bastrop, Smith of Atascosa, Spacek, Spangler, Stanford, Stinson, Stubbs, Taylor, Thornton, Vale, Voigt, Walters, Wattner, Weatherford, White and Whitesides.

On the motion of Mr. Manning, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted by a rising vote.

RECESS

On motion of Mr. Evans, the House, at 12:10 o'clock p. m., took recess until 2:00 o'clock p. m. today.

AFTERNOON SESSION

The House met at 2:00 o'clock p. m., and was called to order by the Speaker.

LEAVES OF ABSENCE GRANTED

Mr. Bray was granted leave of absence for this afternoon on account of important business, on motion of Mr. McMurry.

Mr. Huffman was granted leave of absence for this afternoon on account of important business, on motion of Mr. Kersey.

Mr. Hughes, temporarily for this afternoon on account of important business, on motion of Mr. Lansberry.

Mr. Ellis, temporarily for this afternoon on account of important business, on motion of Mr. Bailey.

EXTENDING PRIVILEGES OF THE FLOOR

In accordance with the provisions of House Simple Resolution No. 213, by Mr. Evans, Extending privileges of the floor of the House to 4-H Club members and Future Farmers of Texas members of Denison, Texas, the following occupied seats on the Speaker's stand:

Messrs. Chambers, Evans, Roark, Benton, Hobbs, Morgan, Deen, Moore, Rampy, Bailey, and Miss Files.

The Speaker presented Honorable Roger Q. Evans, who introduced the following 4-H members, who addressed the House briefly:

Fred Fink, Miss Betty K. Russell, T. L. Taylor, and Miss Alta Frances.

Speaker Leonard then presented each speaker with an enrolled copy of House Simple Resolution No. 213.

RECALLING HOUSE BILL NO. 361 FROM THE SENATE

Mr. Hobbs offered the following resolution:

H. S. R. No. 233, Recalling House Bill No. 361 from the Senate.

Whereas, House Bill No. 361, a local bill relating to the Lavaca County Flood Control District, was inadvertently sent to the Senate; and

Whereas, It is the desire of the House to recall House Bill No. 361 for further consideration; now, therefore, be it

Resolved, by the House of Representatives, That the Senate be requested to return to the House said Bill No. 361.

The resolution was read second time and was adopted.

EXPRESSING APPRECIATION OF THE HOUSE

Mr. Heflin offered the following resolution:

H. S. R. No. 234, Expressing Appreciation of the House to the San Antonio Members of the House.

Whereas, On April 25th, the San Antonio delegation entertained Members of the Legislature with a trip to San Antonio including a most enjoyable dinner; and

Whereas, All those who attended will be better men for having been treated in this friendly manner; and

Whereas, This most enjoyable Battle of Flowers was the climax to a week-end of splendid entertainment furnished through the courtesy of the City of San Antonio and its Legislative Delegation; and

Whereas, All those who attended highly enjoyed the trip and feel indebted to the Bexar County Delegation and the City of San Antonio; now, therefore, be it

Resolved, by the House of Representatives, That we express our appreciation to the San Antonio Members and to the City of San Antonio for a most successful and happy week-end; and be it further

Resolved, That copies of this resolution be presented to each Member of the delegation from San Antonio.

HEFLIN.

The resolution was read second time.

Signed—Leonard, Speaker; Allen, Allison, Alsup, Avant, Bailey, Baker, Bean, Bell, Benton, Blankenship, Boone, Brawner, Bray, Bridgers, Brown, Bruhl, Bullock, Bundy, Bur-

kett, Burnaman, Carlton, Carrington, Cato, Celaya, Chambers, Clark, Cleveland, Coker, Mrs. Colson, Connelly, Craig, Crossley, Crosthwait, Daniel, Davis, Deen, Dickson of Nolan, Donald, Dove, Duckett, Ellis, Eubank, Evans, Favors, Ferguson, Miss Files, Fitzgerald, Fuchs, Gandy, Garland, Gilmer, Goodman, Halsey, Hanna, Hardeman, Hargis, Harris of Dallas, Harris of Hill, Hartzog, Heflin, Helpinstill, Henderson, Hileman, Hobbs, Howard, Howington, Huddleston, Huffman, Hughes, Humphrey, Hutchinson, Isaacks, Jones, Kelly, Kennedy, Kersey, Kinard, King, Klingeman, Knight, Lansberry, Lehman, Leyendecker, Little, Lock, Love, Lowry, Lucas, Lyle, McAlister, McCann, McDonald, McGlasson, McLellan, McMurry, McNamara, Manford, Manning, Markle, Martin, Matthews, Mills, Montgomery, Moore, Morgan, Morris, Morse, Murray, Nicholson, Pace, Parker, Pevehouse, Phillips, Price, Rampy, Reed of Bowie, Reed of Dallas, Rhodes, Roark, Roberts, Sallas, Senterfitt, Sharpe, Shell, Simpson, Skiles, Smith of Bastrop, Smith of Atascosa, Spacek, Spangler, Stanford, Stinson, Stubbs, Taylor, Thornton, Turner, Vale, Voigt, Walters, Wattner, Weatherford, White, Whitesides and Winfree.

On the motion of Mr. McGlasson, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.

MESSAGE FROM THE GOVERNOR

The Speaker laid before the House and had read the following message from the Governor:

April 28, 1941.

To the Members of the Forty-seventh Legislature:

I wish to call your attention to House Bill No. 454 by Walters which is a bill creating a Merit Council to administer personnel standards on a merit basis for the Texas Unemployment Compensation Commission and the State Department of Public Welfare, both of which departments receive grants of funds from the Federal government.

Title 42, Section 302 (a), provides as follows:

“(a) A State plan for old age assistance must * * * (5) provide such methods of administration (including after January 1, 1940, methods relating to establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Board to be necessary for the proper and efficient operation of the plan.”

Title 42, Section 503 (a), provides as follows:

“(a) The Board shall make no certification of payment to any state unless it finds that the law of such state, approved by the Board under the Federal Unemployment Tax Act, includes provision for—

(1) such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Board to be reasonably calculated to insure full payment of unemployment compensation when due;”

By “Board,” referred to above, is meant the Social Security Board.

The first provision above quoted applies to a merit system of personnel administration for the State Department of Public Welfare and the second to a merit system for personnel administration for the Texas Unemployment Compensation Commission.

These provisions of the Federal law were enacted August 10, 1939, which was after the date of adjournment of the Forty-sixth Legislature and, as you know, no session of the Legislature was held since the Forty-sixth Legislature adjourned until this present session; therefore, the Legislature of Texas did not have an opportunity to comply with the requirements of the Federal law until this

bill was introduced during this session of the Legislature.

On December 4, 1940, the State Department of Public Welfare and the Texas Unemployment Compensation Commission were advised by Mr. Oscar M. Powell, Director of the Social Security Board, Washington, D. C., that it was absolutely necessary that a Merit Council be appointed and that the merit system of personnel administration be put into effect in Texas immediately or no further funds would be granted to the State of Texas for the payment of old age pensions or for the operation of the Texas Unemployment Compensation Commission. It was further stated by Mr. Powell that the Social Security Board would not stand the expense of two merit councils but that one should suffice and that until the Legislature met and authorized the creation of a joint Merit Council that the Social Security Board would pay the expenses of a Merit Council for the Texas Unemployment Compensation Commission if the State Department of Public Welfare would agree to use the registers of eligible persons for employment under the merit system of the Texas Unemployment Compensation Commission.

In order to meet the requirements of the Social Security Board, the Texas Unemployment Compensation Commission on December 9, 1940, appointed M. J. Norrell of Dallas, Texas, Raymond C. Gee of Fort Worth, Texas, and Dr. Monroe S. Carroll of Waco, Texas, as members of the Texas Unemployment Compensation Commission Merit Council. The above named gentlemen were recommended by the President of the University of Texas, Texas Agricultural and Mechanical College, and Texas Technological College; and on the same day the State Department of Public Welfare made and passed a resolution requesting the Texas Unemployment Compensation Commission's Merit Council to perform all of the duties that a merit council of their own would perform if they had one and further agreeing to use the registers established by the Texas Unemployment Compensation Commission's Merit Council in employing employees in the future. The Social Security Board in Washington withheld a payment of funds for old age pensions for some three weeks while

all of the details of this agreement were worked out and certified copies of the resolutions were being prepared and forwarded to Washington and upon receipt of proof satisfactory to the Social Security Board that a Merit Council had been established and was functioning, funds were then forwarded to the Texas State Department of Public Welfare for the payment of pensions and since that time, on the basis of this agreement and assurance from the Texas Unemployment Compensation Commission and the State Department of Public Welfare that a bill would be introduced in the Legislature creating a permanent Merit Council for the two departments receiving said funds, the Social Security Board has continued to grant funds, to these two departments.

I am convinced that unless a bill creating a merit system of personnel administration for these two departments is passed by this Legislature the Social Security Board will not grant further funds to Texas for the payment of old age pensions, which would necessitate the calling of a special session at an expense of some two hundred thousand dollars and the loss to the old people of Texas Federal funds pending the passage of such an act during the special session. This we cannot let happen and because of the possibility that it may happen, I have decided to request that you give House Bill No. 454 your immediate attention as an emergency matter.

H. B. No. 454 has been submitted to the Social Security Board in Washington and meets with their approval.

I realize that there is some objection to a merit system of personnel administration by some members of this Legislature for the State at large; however, since the Congress of the United States has made it a condition precedent to the granting of funds to this State for the payment of old age pensions and the operation of the Texas Unemployment Compensation Commission that a merit system of personnel administration be established, we must comply with the mandate of Congress.

This is a serious matter and I urge your serious consideration of this bill.

This bill does not affect any other departments and the cost of the operation of this Merit Council will be borne almost entirely by the Federal government and I am informed that the State will have to appropriate fifty cents out of each Three (\$3.00) Dollars for the operation of the Council. This figure is arrived at in the following manner. The entire cost of operation of the Merit Council for the Texas Unemployment Compensation Commission will be borne by the Federal government; the State Department of Public Welfare will be charged its pro-rata share on the basis of the number of employees of the State Department of Public Welfare bears to the number of employees covered by the act, one-half of which cost will be borne by the Federal government. The Texas Unemployment Compensation Commission has twelve hundred employees and the State Department of Public Welfare has approximately six hundred, therefore, the amount to be paid by the State Department of Public Welfare is one-half the amount paid by the Texas Unemployment Compensation Commission and the State contributes one-half of the sum paid by the State Department of Public Welfare, which makes the State's share one-sixth of the total cost or fifty cents (50¢) out of each Three (\$3.00) Dollars. It is estimated that a nominal appropriation of \$6500.00 will be required to pay the State Department of Public Welfare's pro-rata share.

Respectfully submitted,
W. LEE O'DANIEL,
Governor of Texas.

MESSAGE FROM THE SENATE

Austin, Texas, April 28, 1941.

Hon. Homer Leonard, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed

H. C. R. No. 98, Authorizing State Highway Department to lend City of Groesbeck certain equipment.

Respectfully,
BOB BARKER,
Secretary of the Senate.

HOUSE BILL NO. 796 ON PASSAGE TO ENGROSSMENT

The Speaker laid before the House, as pending business, House Bill No. 796, Relative to regulating the sale, transportation, etc., of alcoholic beverages in this State, etc., on its passage to engrossment.

The bill having heretofore been read second time with committee amendment by Mr. Bell, pending.

(Mr. Walters in the Chair.)

Mr. Blankenship offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to House Bill No. 796, page 7, line 17, by striking out the words "thirty (30) per cent", and inserting in lieu thereof the following:
"Ten (10) per cent".

Mr. Bell moved to table the amendment.

The motion to table prevailed.

(Speaker in the Chair.)

Mr. Bean moved the previous question on the committee amendment and the engrossment of House Bill No. 796, and the motion was duly seconded.

Question Recurring on the motion for the main question, it was lost.

Mr. McMurry moved to postpone further consideration of House Bill No. 796 until 10:30 o'clock a. m. next Wednesday.

On motion of Mr. Bell the motion to postpone was tabled.

Mr. Blankenship offered the following amendment to the committee amendment:

Amend committee amendment to House Bill No. 796, page 7, line 17, by striking out the words "thirty (30) per cent" and inserting in lieu thereof the following "twenty (20) per cent".

The amendment was adopted.

Mr. Blankenship offered the following amendment to the committee amendment:

Amend House Bill No. 796, page 7, line 38, by striking out the words

"two (2) years", and inserting in lieu thereof, the following:

"One (1) year."

Mr. Bell moved to table the amendment by Mr. Blankenship.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—67

Alsup	Klingeman
Bean	Lansberry
Bell	Leyendecker
Benton	Little
Brown	Lyle
Bruhl	McAlister
Bullock	McDonald
Bundy	McMurry
Carlton	McNamara
Carrington	Manning
Clark	Markle
Coker	Martin
Craig	Montgomery
Crossley	Morris
Davis	Morse
Dickson of Bexar	Nicholson
Duckett	Phillips
Dwyer	Rampy
Eubank	Ridgeway
Favors	Senterfitt
Fuchs	Shell
Goodman	Simpson
Halsey	Skiles
Hanna	Spacek
Harris of Dallas	Spangler
Hartzog	Stanford
Henderson	Stubbs
Hobbs	Thornton
Howington	Vale
Hoyo	Voigt
Hutchinson	Wattner
Isaacks	Weatherford
Kersey	Winfree
Kinard	

Nays—64

Allen	Chambers
Allison	Cleveland
Avant	Connelly
Bailey	Deen
Baker	Donald
Blankenship	Dove
Boone	Ellis
Brawner	Ferguson
Burkett	Files
Burnaman	Fitzgerald
Cato	Gandy

Hardeman	McLellan
Hargis	Matthews
Harris of Hill	Mills
Helpinstill	Moore
Hileman	Morgan
Howard	Murray
Huddleston	Pace
Hughes	Parker
Humphrey	Pevehouse
Jones	Price
Kelly	Reed of Bowie
Kennedy	Rhodes
King	Roark
Knight	Roberts
Lehman	Sallas
Lock	Sharpe
Love	Smith of Bastrop
Lowry	Smith of Atascosa
Lucas	Stinson
McCann	Turner
McGlasson	Whitesides

Absent

Bridgers	Gilmer
Colson, Mrs.	Heflin
Crosthwait	Manford
Dickson of Nolan	Reed of Dallas
Evans	Walters
Garland	White

Absent—Excused

Anderson	Daniel
Bray	Huffman
Celaya	Taylor

Mr. Blankenship offered the following amendment to the committee amendment:

Amend House Bill No. 796, page 3, line 35, by adding after the word "Board", the following:

"By publishing such notice in some paper in the county and political subdivision, where said application is made. Such notice shall be published once each week for three consecutive weeks, and the cost of same shall be deposited with the Board at the time the application is made."

Mr. Bell moved to table the amendment by Mr. Blankenship.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table was lost by the following vote:

Yeas—67

Allen	Jones
Alsup	Kersey
Bean	Kinard
Bell	Klingeman
Brown	Lansberry
Bruhl	Leyendecker
Bullock	Love
Bundy	Lyle
Carlton	McAlister
Clark	McDonald
Coker	McMurry
Craig	McNamara
Crosthwait	Manford
Davis	Manning
Dickson of Bexar	Martin
Dickson of Nolan	Morris
Duckett	Morse
Dwyer	Nicholson
Eubank	Parker
Favors	Pevehouse
Files	Phillips
Fuchs	Rampy
Gilmer	Ridgeway
Goodman	Roark
Halsey	Shell
Hanna	Simpson
Hardeman	Skiles
Harris of Dallas	Spacek
Hartzog	Spangler
Henderson	Vale
Hobbs	Voigt
Hoyo	Weatherford
Hutchinson	Winfree
Isaacks	

Nays—70

Allison	Gandy
Avant	Hargis
Bailey	Harris of Hill
Baker	Heflin
Benton	Helpinstill
Blankenship	Hileman
Boone	Howard
Brawner	Howington
Burkett	Huddleston
Burnaman	Hughes
Carrington	Humphrey
Cato	Kennedy
Chambers	King
Cleveland	Knight
Colson, Mrs.	Little
Connelly	Lock
Crossley	Lowry
Deen	Lucas
Donald	McCann
Dove	McGlasson
Ellis	Markle
Evans	Matthews
Ferguson	Mills
Fitzgerald	Montgomery

Moore	Smith of Bastrop
Morgan	Smith of Atascosa
Murray	Stanford
Pace	Stinson
Price	Stubbs
Reed of Bowie	Thornton
Rhodes	Turner
Roberts	Walters
Sallas	Wattner
Senterfitt	White
Sharpe	Whitesides

Absent

Bridgers	Lehman
Garland	McLellan
Kelly	Reed of Dallas

Absent—Excused

Anderson	Daniel
Bray	Huffman
Celaya	Taylor

Question recurring on the amendment by Mr. Blankenship, yeas and nays were demanded.

The amendment was adopted by the following vote:

Yeas—73

Allison	Howington
Avant	Huddleston
Bailey	Hughes
Baker	Humphrey
Benton	Kelly
Blankenship	Kennedy
Boone	Kinard
Brawner	King
Burkett	Knight
Burnaman	Little
Carrington	Lowry
Cato	Lucas
Chambers	McCann
Cleveland	McGlasson
Connelly	Manford
Crossley	Markle
Deen	Matthews
Donald	Mills
Dove	Moore
Ellis	Morgan
Evans	Murray
Ferguson	Pace
Files	Price
Fitzgerald	Reed of Bowie
Gandy	Rhodes
Hardeman	Roark
Hargis	Roberts
Harris of Hill	Sallas
Heflin	Senterfitt
Helpinstill	Sharpe
Hileman	Smith of Bastrop
Howard	Smith of Atascosa

Stanford	Walters
Stinson	Wattner
Stubbs	White
Thornton	Whitesides
Turner	

Nays—66

Allen	Klingeman
Alsup	Lansberry
Bean	Lehman
Bell	Leyendecker
Brown	Lock
Bruhl	Love
Bullock	Lyle
Bundy	McAlister
Carlton	McDonald
Clark	McLellan
Coker	McMurry
Craig	McNamara
Crosthwait	Manning
Davis	Martin
Dickson of Bexar	Montgomery
Dickson of Nolan	Morris
Duckett	Morse
Eubank	Nicholson
Favors	Parker
Fuchs	Pevehouse
Gilmer	Phillips
Goodman	Rampy
Halsey	Reed of Dallas
Hanna	Ridgeway
Harris of Dallas	Shell
Hartzog	Simpson
Henderson	Skiles
Hobbs	Spacek
Hoyo	Spangler
Hutchinson	Vale
Isaacks	Voigt
Jones	Weatherford
Kersey	Winfree

Absent

Bridgers	Dwyer
Colson, Mrs.	Garland

Absent—Excused

Anderson	Daniel
Bray	Huffman
Celaya	Taylor

Mr. Blankenship moved to reconsider the vote by which the amendment was adopted, and to table the motion to reconsider.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table was lost by the following vote:

Yeas—66

Allison	Humphrey
Avant	Kennedy
Bailey	King
Baker	Knight
Benton	Little
Blankenship	Love
Boone	Lowry
Brawner	Lucas
Burkett	McCann
Burnaman	McGlasson
Carrington	Markle
Cato	Matthews
Chambers	Mills
Cleveland	Moore
Connelly	Morgan
Deen	Murray
Donald	Pace
Dove	Parker
Ellis	Price
Evans	Reed of Bowie
Ferguson	Rhodes
Fitzgerald	Roberts
Gandy	Sallas
Hardeman	Senterfitt
Hargis	Sharpe
Harris of Hill	Smith of Bastrop
Heflin	Smith of Atascosa
Helpinstill	Stanford
Hileman	Stinson
Howard	Stubbs
Howington	Turner
Huddleston	Wattner
Hughes	White

Nays—71

Allen	Halsey
Alsup	Hanna
Bean	Harris of Dallas
Bell	Hartzog
Brown	Henderson
Bruhl	Hobbs
Bullock	Hoyo
Bundy	Hutchinson
Carlton	Isaacks
Clark	Jones
Coker	Kersey
Craig	Kinard
Crossley	Klingeman
Crosthwait	Lansberry
Davis	Lehman
Dickson of Bexar	Leyendecker
Dickson of Nolan	Lock
Duckett	Lyle
Dwyer	McAlister
Eubank	McDonald
Favors	McLellan
Files	McMurry
Fuchs	McNamara
Gilmer	Manning
Goodman	Martin

Montgomery	Simpson
Morris	Skiles
Morse	Spacek
Nicholson	Spangler
Pevehouse	Thornton
Phillips	Vale
Rampy	Voigt
Reed of Dallas	Walters
Ridgeway	Weatherford
Roark	Winfree
Shell	

Absent

Bridgers	Kelly
Colson, Mrs.	Manford
Garland	Whitesides

Absent—Excused

Anderson	Daniel
Bray	Huffman
Celaya	Taylor

Question recurring on the motion to reconsider the vote by which the amendment by Mr. Blankenship was adopted.

Mr. Blankenship withdrew the pending amendment.

Mr. Blankenship offered the following amendment to the committee amendment:

Amend House Bill No. 796 by striking out all of Section 7a, on page 20.

Mr. Bell moved to table the amendment.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table was lost by the following vote:

Yeas—61

Alsup	Eubank
Bean	Favors
Bell	Fuchs
Bridgers	Gilmer
Brown	Goodman
Bruhl	Halsey
Bullock	Hanna
Bundy	Harris of Dallas
Carrington	Hartzog
Coker	Hobbs
Crosthwait	Hoyo
Davis	Isaacks
Dickson of Nolan	Kersey
Duckett	Kinard
Dwyer	Klingeman

Lehman	Ridgeway
Leyendecker	Rhodes
Little	Roark
Lock	Roberts
McAlister	Senterfitt
McMurry	Shell
McNamara	Simpson
Manning	Skiles
Martin	Spangler
Montgomery	Stubbs
Morgan	Vale
Morris	Voigt
Morse	Wattner
Nicholson	Weatherford
Pevehouse	Winfree
Phillips	

Nays—72

Allen	Hughes
Allison	Humphrey
Avant	Hutchinson
Bailey	Kennedy
Baker	King
Benton	Knight
Blankenship	Lansberry
Boone	Love
Brawner	Lowry
Burkett	Lucas
Burnaman	Lyle
Carlton	McCann
Cato	McDonald
Chambers	McGlasson
Cleveland	McLellan
Connelly	Manford
Craig	Markle
Deen	Matthews
Dickson of Bexar	Mills
Donald	Moore
Dove	Murray
Ellis	Pace
Evans	Parker
Ferguson	Price
Files	Rampy
Fitzgerald	Reed of Bowie
Gandy	Sharpe
Hardeman	Smith of Bastrop
Hargis	Smith of Atascosa
Harris of Hill	Spacek
Heflin	Stanford
Helpinstill	Stinson
Hileman	Thornton
Howard	Walters
Howington	White
Huddleston	Whitesides

Absent

Clark	Jones
Colson, Mrs.	Kelly
Crossley	Reed of Dallas
Garland	Sallas
Henderson	Turner

Absent—Excused

Anderson	Daniel
Bray	Huffman
Celaya	Taylor

Question recurring on the amendment by Mr. Blankenship, yeas and nays were demanded.

The roll of the House was called and the vote announced as follows: Yeas, 67; nays, 66.

A verification of the vote was requested.

Mr. Blankenship moved a call of the House for the purpose of maintaining a quorum pending the verification, and the call was duly seconded.

Question recurring on the motion for the call of the House, it was lost.

The roll of the "yeas" and "nays" was again called and the verified vote resulted as follows:

Yeas—65

Allen	King
Allison	Knight
Avant	Lansberry
Bailey	Love
Baker	Lowry
Benton	Lucas
Blankenship	Lyle
Brawner	McCann
Burkett	McGlasson
Burnaman	McLellan
Chambers	McMurry
Cleveland	Markle
Colson, Mrs.	Matthews
Connelly	Mills
Craig	Moore
Deen	Murray
Dickson of Bexar	Pace
Donald	Parker
Dove	Price
Ellis	Rampy
Evans	Reed of Bowie
Ferguson	Sallas
Gandy	Sharpe
Hardeman	Smith of Bastrop
Hargis	Smith of Atascosa
Helpinstill	Spacek
Hileman	Stanford
Howington	Stinson
Huddleston	Thornton
Hughes	Walters
Humphrey	White
Hutchinson	Whitesides
Kennedy	

Nays—66

Alsup	Kersey
Bean	Kinard
Bell	Klingeman
Bridgers	Lehman
Brown	Leyendecker
Bruhl	Little
Bullock	Lock
Bundy	McAlister
Carlton	McNamara
Carrington	Manford
Cato	Martin
Clark	Montgomery
Coker	Morgan
Crossley	Morris
Crosthwait	Morse
Davis	Nicholson
Duckett	Pevehouse
Dwyer	Phillips
Eubank	Reed of Dallas
Favors	Ridgeway
Fitzgerald	Roark
Fuchs	Roberts
Gilmer	Senterfitt
Goodman	Shell
Halsey	Simpson
Hanna	Skiles
Harris of Dallas	Spangler
Hartzog	Stubbs
Heflin	Vale
Henderson	Voigt
Hobbs	Wattner
Hoyo	Weatherford
Isaacks	Winfree

Absent

Boone	Jones
Dickson of Nolan	Kelly
Files	McDonald
Garland	Manning
Harris of Hill	Rhodes
Howard	Turner

Absent—Excused

Anderson	Daniel
Bray	Huffman
Celaya	Taylor

The Speaker announced that the amendment by Mr. Blankenship was lost.

Mr. Smith of Atascosa offered the following amendment to the committee amendment:

Amend committee amendment to House Bill No. 796 by adding a new section to be known as "Section 2a" to read as follows:

"That Section 14, Article 1, Chapter 467, Acts of the Second Called

Session of the Forty-fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, and Senate Bill No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

Sec. 14. And in the event of any person being aggrieved by any decision, rule, or order of the Board, such person shall have the right of an appeal therefrom to the District Court of the county in which a decision, rule, or order in such case would become effective, said suit to be against the Board alone as defendant, and such suit shall be tried de novo, as such term is defined and meant in an appeal from justice court to county court, and be governed by the same rules as other suits in said court, and during the pendency of such suit the order of the Board may be suspended by interlocutory order of the Court pending a hearing on the merits. Such cause shall be tried before the Judge of such court within ten (10) days after the docketing of the cause, or in the earliest possible time after such ten (10) day period in the event the Judge is not able to try such cause within such ten (10) day period.

Mr. Love moved to postpone further consideration of House Bill No. 796 until 10:00 o'clock a. m. next Wednesday.

The motion was lost.

Mr. Morris moved the previous question on the pending amendments and the engrossment of House Bill No. 796, and the main question was ordered.

Question recurring on the amendment by Mr. Smith of Atascosa, yeas and nays were demanded.

The roll of the House was called, and the vote announced as follows: Yeas, 60; nays, 60.

A verification of the vote was requested.

The roll of the "yeas" and "nays" was again called, and the verified vote resulted as follows:

Yeas—52

Allison	Lucas
Avant	Lyle
Bailey	McGlasson
Baker	McLellan
Benton	McMurry
Blankenship	Manford
Boone	Markle
Brawner	Matthews
Brown	Mills
Bundy	Morgan
Burkett	Pace
Craig	Parker
Crossley	Pevehouse
Deen	Price
Donald	Ridgeway
Eubank	Roark
Favors	Roberts
Gilmer	Sallas
Goodman	Sharpe
Helpinstill	Simpson
Kennedy	Smith of Bastrop
Knight	Smith of Atascosa
Lansberry	Stanford
Little	Stinson
Love	Stubbs
Lowry	Thornton

Nays—66

Alsup	Humphrey
Bell	Hutchinson
Bridgers	Isaacks
Bruhl	Kelly
Bullock	Kersey
Burnaman	King
Carlton	Klingeman
Carrington	Lehman
Cato	Leyendecker
Chambers	Lock
Cleveland	McDonald
Coker	McNamara
Connelly	Martin
Crosthwait	Montgomery
Davis	Moore
Dickson of Bexar	Morse
Dove	Murray
Duckett	Nicholson
Files	Phillips
Fitzgerald	Rampy
Fuchs	Reed of Bowie
Gandy	Rhodes
Garland	Senterfitt
Halsey	Shell
Hargis	Skiles
Harris of Dallas	Spacek
Henderson	Spangler
Hileman	Turner
Hobbs	Voigt
Howington	Walters
Hoyo	Wattner

Weatherford
White

Whitesides
Winfree

Absent

Allen	Hartzog
Bean	Heflin
Clark	Howard
Colson, Mrs.	Huddleston
Daniel	Jones
Dickson of Nolan	Kinard
Dwyer	McAlister
Evans	McCann
Ferguson	Manning
Hanna	Morris
Hardeman	Reed of Dallas
Harris of Hill	Vale

Absent—Excused

Anderson	Huffman
Bray	Hughes
Celaya	Taylor
Ellis	

The Speaker announced that the amendment by Mr. Smith of Atascosa was lost.

Question recurring on the committee amendment, as amended, it was adopted.

By unanimous consent of the House, the caption of the bill was ordered amended to conform to all changes and with the body of the bill.

House Bill No. 796 was then passed to engrossment.

Mr. Bell moved to reconsider the vote by which the bill was engrossed, and to table the motion to reconsider.

The motion to table prevailed.

MOTIONS TO PLACE HOUSE BILL NO. 796 ON THIRD READING

Mr. Bell moved that the Constitutional Rule requiring bills to be read on three several days be suspended, and that House Bill No. 796 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary four-fifths vote):

Yeas—100

Allen	Bailey
Alsup	Bell

Bridgers	Lock
Bruhl	Lucas
Bullock	Lyle
Bundy	McAlister
Carlton	McDonald
Carrington	McNamara
Cato	Manford
Chambers	Manning
Clark	Markle
Cleveland	Martin
Coker	Matthews
Colson, Mrs.	Montgomery
Connelly	Moore
Crossley	Morgan
Crosthwait	Morris
Davis	Morse
Dickson of Bexar	Nicholson
Donald	Parker
Duckett	Pevehouse
Dwyer	Phillips
Eubank	Price
Favors	Rampy
Files	Reed of Bowie
Fitzgerald	Reed of Dallas
Fuchs	Rhodes
Garland	Roark
Gilmer	Roberts
Halsey	Sallas
Hanna	Senterfitt
Harris of Dallas	Sharpe
Hartzog	Shell
Henderson	Simpson
Hileman	Skiles
Hobbs	Smith of Bastrop
Howington	Smith of Atascosa
Hoyo	Spacek
Humphrey	Spangler
Hutchinson	Stanford
Isaacks	Stinson
Jones	Stubbs
Kelly	Turner
Kersey	Vale
Kinard	Voigt
Klingeman	Wattner
Lansberry	Weatherford
Lehman	White
Leyendecker	Whitesides
Little	Winfree

Nays—35

Allison	Dove
Avant	Ferguson
Baker	Gandy
Benton	Goodman
Blankenship	Hardeman
Boone	Hargis
Brawner	Heflin
Brown	Helpinstill
Burkett	Huddleston
Burnaman	Kennedy
Craig	King
Deen	Knight

Love	Murray
Lowry	Pace
McGlasson	Ridgeway
McLellan	Thornton
McMurry	Walters
Mills	

Absent

Bean	Harris of Hill
Daniel	Howard
Dickson of Nolan	McCann
Evans	

Absent—Excused

Anderson	Huffman
Bray	Hughes
Celaya	Taylor
Ellis	

Mr. Kersey moved that the Constitutional Rule requiring bills to be read on three several days be suspended and that House Bill No. 796 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary four-fifths vote):

Yeas—99

Allen	Gilmer
Alsup	Halsey
Bailey	Hargis
Bell	Harris of Dallas
Bridgers	Hartzog
Bruhl	Henderson
Bullock	Hileman
Bundy	Hobbs
Burnaman	Howard
Carlton	Howington
Carrington	Hoyo
Cato	Humphrey
Chambers	Hutchinson
Clark	Isaacks
Cleveland	Jones
Coker	Kelly
Colson, Mrs.	Kersey
Connelly	Kinard
Crossley	Klingeman
Crosthwait	Lansberry
Davis	Lehman
Dickson of Bexar	Leyendecker
Dickson of Nolan	Lock
Donald	Lucas
Dwyer	Lyle
Eubank	McAlister
Favors	McDonald
Files	McNamara
Fitzgerald	Manford
Fuchs	Manning
Garland	Markle

Martin	Senterfitt
Matthews	Sharpe
Montgomery	Shell
Moore	Simpson
Morgan	Skiles
Morris	Smith of Bastrop
Morse	Spacek
Nicholson	Spangler
Parker	Stanford
Pevehouse	Stinson
Phillips	Stubbs
Price	Vale
Rampy	Voigt
Reed of Bowie	Wattner
Reed of Dallas	Weatherford
Rhodes	White
Roark	Whitesides
Roberts	Winfree
Sallas	

Nays—36

Allison	Huddleston
Avant	Kennedy
Baker	King
Benton	Knight
Blankenship	Little
Boone	Love
Brawner	Lowry
Brown	McGlasson
Craig	McLellan
Deen	McMurry
Dove	Mills
Duckett	Murray
Ferguson	Pace
Gandy	Ridgeway
Goodman	Smith of Atascosa
Hardeman	Thornton
Heflin	Turner
Helpinstill	Walters

Absent

Bean	Hanna
Burkett	Harris of Hill
Daniel	McCann
Evans	

Absent—Excused

Anderson	Huffman
Bray	Hughes
Celaya	Taylor
Ellis	

APPOINTMENT OF CONFERENCE
COMMITTEE ON HOUSE
BILL NO. 405

The Speaker announced the appointment of the following Conference Committee on House Bill No. 405:

Messrs. Bell, Heflin, Hardeman, Bruhl and Senterfitt.

MOTION TO SET SPECIAL ORDER

Mr. McDonald moved that House Bill No. 675 be set for special order at 11:00 o'clock a. m. tomorrow.

The motion was lost by the following vote:

Yeas—44

Avant	Kinard
Bell	Lehman
Bridgers	McAlister
Brown	McDonald
Burnaman	McGlasson
Carrington	McNamara
Cato	Markle
Chambers	Moore
Clark	Morris
Coker	Morse
Colson, Mrs.	Murray
Connelly	Nicholson
Dickson of Bexar	Phillips
Donald	Roark
Eubank	Skiles
Ferguson	Stanford
Files	Thornton
Fuchs	Walters
Helpinstill	Wattner
Henderson	White
Howington	Whitesides
Hutchinson	Winfree

Nays—81

Allison	Hardeman
Alsup	Harris of Dallas
Bailey	Heflin
Baker	Hileman
Bean	Hobbs
Benton	Hoyo
Blankenship	Huddleston
Brawner	Isaacks
Bruhl	Jones
Bullock	Kelly
Bundy	Kennedy
Burkett	Kersey
Cleveland	King
Craig	Klingeman
Crossley	Knight
Crothwait	Lansberry
Deen	Leyendecker
Dickson of Nolan	Little
Dove	Lock
Duckett	Love
Dwyer	Lowry
Favors	Lucas
Fitzgerald	Lyle
Gandy	McLellan
Garland	McMurry
Gilmer	Manford
Goodman	Manning
Halsey	Martin
Hanna	Matthews

Mills	Senterfitt
Morgan	Simpson
Pace	Smith of Atascosa
Parker	Spacek
Pevehouse	Spangler
Price	Stinson
Rampy	Stubbs
Reed of Bowie	Turner
Ridgeway	Vale
Rhodes	Voigt
Roberts	Weatherford
Sallas	

Absent

Allen	Howard
Boone	Humphrey
Carlton	McCann
Daniel	Montgomery
Davis	Reed of Dallas
Evans	Sharpe
Hargis	Shell
Harris of Hill	Smith of Bastrop
Hartzog	

Absent—Excused

Anderson	Huffman
Bray	Hughes
Celaya	Taylor
Ellis	

SPECIAL ORDER SET

Mr. Walters moved that House Bill No. 454 be set for special order at 11:00 o'clock a. m. tomorrow.

The motion prevailed by the following vote:

Yeas—111

Allison	Crossley
Alsup	Crothwait
Avant	Deen
Baker	Dickson of Bexar
Benton	Donald
Blankenship	Dove
Boone	Duckett
Brawner	Dwyer
Bridgers	Favors
Brown	Ferguson
Bruhl	Files
Bullock	Fitzgerald
Bundy	Fuchs
Burkett	Gandy
Burnaman	Garland
Carrington	Gilmer
Cato	Goodman
Chambers	Halsey
Clark	Hanna
Cleveland	Hardeman
Coker	Heflin
Colson, Mrs.	Helpinstill
Connelly	Henderson
Craig	Hileman

Howington	Morris
Hoyo	Morse
Huddleston	Murray
Humphrey	Nicholson
Hutchinson	Parker
Isaacks	Phillips
Jones	Price
Kelly	Rampy
Kennedy	Reed of Bowie
Kersey	Reed of Dallas
Kinard	Ridgeway
Klingeman	Rhodes
Knight	Roark
Lansberry	Roberts
Lehman	Sallas
Little	Senterfitt
Lock	Sharpe
Love	Simpson
Lowry	Skiles
Lucas	Spacek
Lyle	Stanford
McAlister	Stinson
McLellan	Thornton
McMurry	Turner
Manford	Vale
Manning	Voigt
Markle	Walters
Martin	Wattner
Matthews	White
Mills	Whitesides
Montgomery	Winfree
Moore	

Nays—12

Bailey	McNamara
Davis	Pace
Harris of Dallas	Smith of Atascosa
King	Spangler
Leyendecker	Stubbs
McGlasson	Weatherford

Absent

Allen	Hartzog
Bean	Hobbs
Bell	Howard
Carlton	McCann
Daniel	McDonald
Dickson of Nolan	Morgan
Eubank	Pevehouse
Evans	Shell
Hargis	Smith of Bastrop
Harris of Hill	

Absent—Excused

Anderson	Huffman
Bray	Hughes
Celaya	Taylor
Ellis	

ADDITIONAL SIGNER OF HOUSE
BILL NO. 675

By unanimous consent of the House, the following Member was authorized to sign bill as coauthor of same, as follows:

Mr. Cato: House Bill No. 675.

RESOLUTION SIGNED BY
THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof and its caption had been read, the following enrolled resolution:

H. C. R. No. 98, Authorizing the Loan of Certain Highway Equipment.

MOTION TO INTRODUCE
CERTAIN BILL

Mr. Blankenship moved to introduce at this time and have placed on first reading, the following bill:

By Mr. Blankenship:

H. B. No. —, A bill to be entitled "An Act further regulating the sale of alcoholic beverages by amending Section 25 (a), Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, and by Senate Bill 20, Acts of the First Called Session of the Forty-fifth Legislature; amending Section 26, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by House Bill 5, Acts of the Regular Session of the Forty-fifth Legislature, by the addition thereto of a new Subsection (c); establishing restrictions under which such alcoholic beverages may be sold under certain conditons and prohibiting certain practices contrary to public morals and decency; prescribing penalties; providing saving clauses; and declaring an emergency."

The motion was lost by the following vote (not receiving the necessary four-fifths vote):

Yeas—81

Allen	Hutchinson
Allison	Isaacks
Alsup	Jones
Avant	Kelly
Bailey	Kennedy
Benton	King
Blankenship	Knight
Boone	Lansberry
Brawner	Lehman
Bundy	Love
Burkett	Lucas
Carrington	Lyle
Cato	McCann
Chambers	McDonald
Cleveland	McGlasson
Connelly	McLellan
Craig	McMurry
Crosthwait	Markle
Davis	Matthews
Deen	Montgomery
Donald	Morgan
Dove	Murray
Ellis	Pace
Eubank	Price
Ferguson	Rampy
Files	Reed of Bowie
Fitzgerald	Rhodes
Gandy	Roark
Halsey	Roberts
Hargis	Senterfitt
Harris of Hill	Smith of Bastrop
Heflin	Smith of Atascosa
Helpinstill	Stanford
Hileman	Stinson
Howard	Thornton
Howington	Walters
Hoyo	Wattner
Huddleston	Weatherford
Huffman	White
Hughes	Whitesides
Humphrey	Winfree

Nays—36

Bell	Leyendecker
Bridgers	Little
Brown	Lowry
Bruhl	McAlister
Bullock	McNamara
Carlton	Martin
Clark	Mills
Crossley	Morse
Dickson of Nolan	Nicholson
Duckett	Parker
Goodman	Pevhouse
Hanna	Ridgeway
Hardeman	Shell
Henderson	Spacek
Hobbs	Spangler
Kersey	Turner
Kinard	Vale
Klingeman	Voigt

Absent

Baker	Hartzog
Bean	Lock
Burnaman	Manford
Coker	Manning
Colson, Mrs.	Moore
Dickson of Bexar	Morris
Dwyer	Phillips
Evans	Reed of Dallas
Favors	Sallas
Fuchs	Sharpe
Garland	Simpson
Gilmer	Skiles
Harris of Dallas	Stubbs

Absent—Excused

Anderson	Daniel
Bray	Taylor
Celaya	

HOUSE BILLS ON FIRST
READING

The following House bills, introduced today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Garland:

H. B. No. 967, A bill to be entitled "An Act authorizing the allowance of traveling expenses for members of the commissioners' court in certain counties; and declaring an emergency."

Referred to the Committee on Counties.

By Mr. Lansberry (by request):

H. B. No. 968, A bill to be entitled "An Act creating a special road law for Burnet County, Texas; providing that said county may fund or refund into coupon bonds the scrip and time warrants outstanding against its road and bridge fund as of the 12th day of May, 1941; setting forth the method of said funding or refunding; validating all acts of the Commissioners' Court in issuing said scrip and time warrants; validating said scrip and time warrants; providing the general laws of the State of Texas shall be applicable to Burnet County when not in conflict herewith; providing this Act shall be cumulative of all General and Special Laws not in conflict herewith; providing a saving clause; and declaring an emergency."

Referred to the Committee on Counties.

By Mr. Bruhl:

H. B. No. 969, A bill to be entitled "An Act providing that the closed season on fishing in Blanco County shall be during the months of February, March and April; repealing all laws or parts of laws in conflict with this Act; and declaring an emergency."

Referred to the Committee on Game and Fisheries.

By Mr. Shell:

H. B. No. 975, A bill to be entitled "An Act for the purpose of better conserving the game and fish resources of Aransas County by providing for the closure of a certain area in Aransas Bay to the use of the oyster dredge, making it unlawful to dredge in such area; and declaring an emergency."

Referred to the Committee on Game and Fisheries.

By Mr. Davis:

H. B. No. 978, A bill to be entitled "An Act repealing House Bill No. 386 of the Regular Session of the 47th Legislature; amending Section 3 of House Bill No. 12 of the Second Called Session of the 42nd Legislature so as to permit fishing for certain species of fish in McLennan County during the month of February of any year; repealing all laws or parts of laws in conflict with the provisions of this Act; and declaring an emergency."

Referred to the Committee on Game and Fisheries.

By Mr. Shell:

H. B. No. 980, A bill to be entitled "An Act to amend Article 880 of the Penal Code of the State of Texas, as amended by Chapter 47, Acts of the Second Called Session of the Forty-fifth Legislature; and declaring an emergency."

Referred to the Committee on Game and Fisheries.

Mr. Reed of Dallas asked unanimous consent to introduce at this time and have placed on first reading House Bill No. 970.

There was no objection.

The Speaker then laid the bill before the House, it was read first time and referred to the appropriate committee as follows:

By Mr. Reed of Dallas, Mr. Stinson, Mr. Hanna, Mr. Harris of Dallas, Mr. Crosthwait and Mr. Blankenship, (by request):

H. B. No. 970, A bill to be entitled "An Act empowering cities of over 75,000 inhabitants to have small claims courts; providing for the duration thereof and for the appointment of a judge, deputy constable and subordinate officers and clerks; making provisions for the payment of the expense of said court; providing for the qualifications of the judge and detailing the jurisdiction, venue, and procedure governing said courts; providing for the conciliation of differences between the parties wherever possible and for court costs and attorney's fee; making judgment of said courts final and providing for their enforcement; adopting the recommendations of the Texas Civil Judicial Council, as approved by the Supreme Court, in regard to the administration and business of said courts; granting authority to the city to pass ordinances upon any of the subject matter hereof; repealing all laws and parts of laws in conflict herewith; providing that if any provision of this Act shall be held invalid or unconstitutional, the other provisions shall not be affected; and declaring an emergency."

Referred to the Committee on Judiciary and Uniform State Laws.

Mr. Lyle asked unanimous consent to introduce at this time and have placed on first reading House Bill No. 971.

There was no objection.

The Speaker then laid the bill before the House, it was read first time and referred to the appropriate committee as follows:

By Mr. Lyle:

H. B. No. 971, A bill to be entitled "An Act authorizing cities and towns eligible under the terms of this Act to fund certain indebtedness outstanding on the effective date of this Act; prescribing the method and procedure for issuance of funding or refunding bonds, and which cities or

towns cannot derive revenues for general fund operating expenses from any publicly owned utilities at this time; validating such outstanding indebtedness not in litigation at the time this Act becomes effective; providing that this Act shall not increase the debt burden of any such city or town; providing that this Act shall be cumulative of all other Acts, but that its provisions shall prevail in the event of conflict with other laws; enacting provisions incident to and relating to the subject; and declaring an emergency."

Referred to the Committee on Municipal and Private Corporations.

Mr. Lansberry asked unanimous consent to introduce at this time and have placed on first reading House Bill No. 972.

There was no objection.

The Speaker then laid the bill before the House, it was read first time and referred to the appropriate committee as follows:

By Mr. Lansberry:

H. B. No. 972, A bill to be entitled "An Act to repeal Chapter 48, page 102, Acts 2nd Called Session of 38th Legislature; Chapter 35, page 161, Acts of Regular Session, 39th Legislature; Chapter 56, page 159, Acts of First Called Session of 40th Legislature; Chapter 292, page 656, Acts of Regular Session, 41st Legislature; Chapter 235, Acts of 42nd Legislature; Senate Bill No. 32, 1st Called Session, 43rd Legislature, as amended by Senate Bill No. 11, 43rd Legislature, 4th Called Session; Chapter 3, page 3, Acts of Regular Session, 39th Legislature and House Bill No. 22, Chapter 23, page 26, Regular Session, 45th Legislature; Chapter 22, page 32, Acts 3rd Called Session, 36th Legislature and House Bill No. 181, Chapter 12, page 989, Regular Session, 46th Legislature; Chapter 23, page 34, Acts 3rd Called Session, 36th Legislature and House Bill No. 180, Chapter 7, page 973, Regular Session, 46th Legislature; Chapter 183, page 270, Acts of Regular Session, 37th Legislature; Chapter 162, page 343, Acts of Regular Session, 38th Legislature; Senate Bill No. 3, 1st Called Session, 44th Legislature;

House Bill No. 77, Chapter 126, page 348, Regular Session, 44th Legislature; Senate Bill No. 6, Regular Session, 46th Legislature; House Bill No. 1079, Regular Session, 46th Legislature; Senate Bill No. 89, Regular Session 46th Legislature; Senate Bill No. 99, Regular Session, 46th Legislature; and declaring an emergency."

Referred to the Committee on State Affairs.

Mr. Gilmer asked unanimous consent to introduce at this time and have placed on first reading House Bill No. 973.

There was no objection.

The Speaker then laid the bill before the House, it was read first time and referred to the appropriate committee, as follows:

By Mr. Gilmer:

H. B. No. 973, A bill to be entitled "An Act authorizing the Commissioners' Court of any county in this State to call an election for the purpose of issuing bonds or warrants for the purpose of acquiring tracts of land and constructing buildings and improvements thereon for an agricultural experiment station; authorizing said Commissioners' Court to levy and collect a tax sufficient to pay the annual interest and to provide a sinking fund for the payment of the principal at maturity; providing that the election shall be held under provisions of Title 28, Chapter 1 and 2, Revised Civil Statutes of 1925; authorizing Commissioners' Court to lease any experiment station acquired under authority of this Act to the State of Texas or to any agency of the Federal government; and declaring an emergency."

Referred to the Committee on Counties.

Mr. Brawner asked unanimous consent to introduce at this time and have placed on first reading House Bill No. 974.

There was no objection.

The Speaker then laid the bill before the House, it was read first time and referred to the appropriate committee, as follows:

By Mr. Brawner:

H. B. No. 974, A bill to be entitled "An Act to amend Section 18, Chapter 41, Acts of the 40th Legislature, First Called Session, as amended by Section 2 of House Bill No. 614, Acts of the Regular Session of the 46th Legislature, to provide that any citizen of Texas wishing to file the record of any birth, not previously registered, may submit such record to the Probate Court in the county where such person resides rather than where the birth occurred, as now required; and declaring an emergency."

Referred to the Committee on Judiciary and Uniform State Laws.

Mr. Blankenship asked unanimous consent to introduce at this time and have placed on first reading House Bill No. 976.

There was no objection.

The Speaker then laid the bill before the House, it was read first time and referred to the appropriate committee, as follows:

By Mr. Blankenship, Mr. Harris of Dallas, Mr. Stinson, Mr. Hanna, Mr. Crosthwait and Mr. Reed of Dallas:

H. B. No. 976, A bill to be entitled "An Act regulating the solemnization of marriages in this State, prohibiting any person from soliciting, within any courthouse, public building, or upon the grounds thereof, for the privilege of performing any marriage ceremony, providing for injunctive relief to prevent any such person from performing marriage ceremonies, providing a penalty; and declaring an emergency."

Referred to the Committee on Judiciary and Uniform State Laws.

Mr. Roark asked the unanimous consent to introduce at this time and have placed on first reading House Bill No. 977.

There was no objection.

The Speaker then laid the bill before the House, it was read first time and referred to the appropriate committee, as follows:

By Mr. Roark:

H. B. No. 977, A bill to be entitled "An Act to require that all persons,

firms or corporations preparing abstracts of title in Texas for a fee shall provide a bond or insurance policy for the protection of persons relying on the abstract certificates to their damage in certain instances; providing a penalty for the violation thereof; and declaring an emergency."

Referred to the Committee on Judiciary and Uniform State Laws.

Mr. Davis asked unanimous consent to introduce at this time and have placed on first reading House Bill No. 979.

There was no objection.

The Speaker then laid the bill before the House, it was read first time and referred to the appropriate committee, as follows:

By Mr. Davis:

H. B. No. 979, A bill to be entitled "An Act to amend Article 5139, Revised Civil Statutes of Texas, 1925, to make the provisions of such statute applicable to any county having a population of One Hundred Five Thousand (105,000) or over instead of One Hundred Thousand (100,000) or over, and not more than Two Hundred Thousand (200,000); and declaring an emergency."

Referred to the Committee on Judiciary and Uniform State Laws.

Mr. McAlister asked unanimous consent to introduce at this time and have placed on first reading House Bill No. 981.

There was no objection.

The Speaker then laid the bill before the House, it was read first time and referred to the appropriate committee, as follows:

By Mr. McAlister and Mr. Lyle:

H. B. No. 981, A bill to be entitled "An Act permitting estates of deceased Texas citizens, and others being administered within its jurisdiction, to take advantage of savings in Federal income taxes, authorized under Section 162 of the Federal Internal Revenue Code, by providing that where the estate of a deceased person is being administered under the direction, control and orders of a county court in the exercise of its probate jurisdiction, upon

the application of the executor or administrator of said estate, or any interested party, after notice thereof as provided for in Sections 6 and 7 of House Bill No. 112, Chapter 446 of the Forty-fourth Legislature, Second Called Session, 1935, relating to notices of applications filed under the provisions of said House Bill No. 112, and when it appears, from the evidence introduced at the hearing of said application, and the court finds that the reasonable market value of the assets of the estate then on hand, exclusive of the annual income therefrom, is at least twice the aggregate amount of all unpaid debts, administration expenses and legacies, and no creditors or legatees of the estate then appearing and objecting, the county court may order and direct the executor or administrator to pay to, or credit to the account of those persons who the court finds will own the assets of the estate, when the administration thereon is completed, and in the same proportions, such part of the annual net income received by or accruing to said estate, as the court may believe and find can be paid conveniently to, or credited to the account of, such owners, without prejudice to the rights of creditors, legatees, or other interested parties, and providing that nothing contained in said Act shall authorize the county court to order paid to, or credited to the account of, such owners of the estate any part of the corpus or principal thereof, and providing that, for the purposes of said Act, bonuses, rentals and royalties received for or from an oil, gas and mineral lease shall be treated and regarded as income and not corpus or principal; and declaring an emergency."

Referred to the Committee on State Affairs.

ADJOURNMENT

Mr. Morgan moved that the House recess until 7:30 o'clock p. m. today.

Mr. McNamara moved that the House adjourn until 10:00 o'clock a. m. tomorrow.

The motion to adjourn prevailed and the House accordingly, at 6:00 o'clock p. m., adjourned until 10:00 o'clock a. m. tomorrow.

APPENDIX

REPORTS OF THE COMMITTEE ON ENGROSSED BILLS

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 14, A bill to be entitled "An Act to amend Article 954, Code of Criminal Procedure, to authorize the Governor to remit fines, forfeitures of recognizances and bail bonds, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 42, A bill to be entitled "An Act providing a unified, comprehensive code of procedures for financial administration, including financial planning and budgeting, accounting and financial control current auditing of receivables and receipts and preauditing of expenditures, purchasing and property control, and management of general government buildings; creating a Governor's Cabinet, a Department of Finance and Control, a Director of the Budget, a Director of Purchasing, a Division of Accounting, and prescribing their power and duties, a Classified Civil Service based upon the merit system for Personnel Administration, an Advisory Personnel Council; prescribing methods of procedures for personnel administration, and creating an auditor of State, a Commissioner of Institutions, and prescribing their powers and duties; making transfers of functions from existing officers and other agencies to the agencies so created; abolishing certain agencies; declaring the rule that the remainder of the Act shall not be affected by the unconstitutionality or invalidity of any part thereof, repealing all laws and parts of laws in conflict herewith, prescribing pen-

alties for violations of provisions of this Act, and declaring time of going into effect."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 64, A bill to entitled "An Act to validate the organization and creation of all school districts, including common school districts, independent school districts, consolidated common school districts, all county line school districts, including county line common school districts, county line independent school districts, county line consolidated common school districts, county line consolidated independent school districts, rural high school districts, and all other school districts, whether created by General or Special Law or by County Boards of Trustees; providing this Act shall not validate the organization or creation of any district, or consolidation or annexation of any district in or to such district where the same is now involved in litigation or where suit or litigation is filed with reference thereto within forty-five (45) days after the effective date of this Act; validating the acts of said County Boards of Trustees and Boards of Trustees of such districts; validating bond assumption elections and all bonds voted, authorized and/or now outstanding of said districts; validating all tax levies made in behalf of said districts; authorizing and empowering all school districts mentioned in this Act to levy, assess, and collect the same rate heretofore authorized or attempted to be authorized by any act or acts of said districts, or by any Act of the Legislature; making certain exemptions; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 279, A bill to be entitled "An Act to amend Section 2 of S. B. 575, Acts of the 42nd Legislature, Regular Session, approved April 31, 1931, being an Act to establish a system of public roads and bridges for Bexar County and granting certain powers to the Commissioners' Court of said county with reference thereto authorizing the Commissioners' Court to hire all necessary road machinery, tools or teams, and by agreement of the parties to apply the rental upon the purchase price thereof in the event the county purchases the same, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 285, A bill to be entitled "An Act amending Section 9, Chapter 15, General Laws, 41st Legislature, Second Called Session, to provide that any person violating any of the provisions of this Act may be prosecuted therefor in any county of this State where such violation occurs; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 305, A bill to be entitled "An Act amending Sections 3, 4 and 6, Chapter 21, General and Special Laws, 43rd Legislature of Texas,

Second Called Session, which amended Sections 4, 5 and 8, Chapter 241, General Laws of the 43rd Legislature of Texas, Regular Session, providing for the reduction of promoter's license fees and bond in cities of less than 25,000 population; providing for the appointment of a referee for a single bout by a deputy boxing commissioner, and fixing the fee therefor; providing for similar appointment of seconds, timekeepers, and other local officials for no license fee; providing for a thirty days boxer's license and fixing the fee therefor; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 332, A bill to be entitled "An Act to amend Articles 120, 121, 127, 128, 133, 134 and 135 and to repeal Articles 122, 123, 124, 125 and 126 of Chapter Seven. Title Four of the Revised Civil Statutes of Texas, 1925, said Article 120, as hereby amended, to include the contagious disease known as yellows; the contagious disease known as "peach mosaic"; the contagious disease known as "phony peach" and other contagious diseases and other injurious insect pests, and including and naming certain trees and/or plants susceptible to such contagious diseases and/or injurious insect pests; said Article 121, as hereby amended, to include all provisions for determination of nuisances; abatement of nuisance; notice of existence of nuisance; notice period; treatment and/or destruction; expense of treatment and/or destruction; issuance of orders, rules and regulations of and/or by the Commissioner; certification of nurseries and/or shipments of nursery stock by Commissioner; and for appeal from orders and decisions of the Commissioners, as such provisions were heretofore contained in Articles 122, 123, 124, 125 and 126 of Chapter Seven, Title Four, Revised Civil Statutes of Texas, 1925, which said Articles are by this Act repealed;

together with provisions requiring inspection reports; providing procedure for treatment of infection and infestation; providing for issuance of compliance orders by the Commissioner and providing that inspection reports shall constitute complaints against infested premises; said Article 127, as hereby amended, to provide for affixing copy of nursery inspector's certificate to all nursery stock sold within this State; said Article 128, as hereby amended, to provide for certification of foreign shipments of nursery stock by Commissioner; to provide procedure for such certification; providing for marking of nursery stock shipped into this State and requiring inspection and certification thereof by duly constituted authority at point of origin; said Article 133, as hereby amended, to provide fees for inspection, to provide for determination of fees by Commissioner; limiting fees to be collected; and providing that the Commissioner shall have the authority to enter into reciprocal agreements with regard to inspection and inspection fees with responsible officers of other States, and making certification conditional upon payment of fees; said Article 135, as hereby amended, defining the terms "Department," "Commissioner," "Section," "Person," "Sale," "Premises," "Heel Yard," "Nursery Stock," "Nurseryman," "Dealer," "Agent," "Solicitor or Salesman," and providing that the act or culpable omission of an agent, solicitor or salesman shall be construed and taken to be the act or culpable omission of the principal; defining the phrase "Not Regularly Engaged in the Business"; and defining the term "Landscape Gardner"; this Act expressly repeals Articles 122, 123, 124, 125 and 126 of Chapter Seven, Title Four, of Revised Civil Statutes of Texas, 1925, provides a saving clause and declares an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 518, A bill to be entitled "An Act authorizing the Commissioners' Courts in all counties having a population of not less than one hundred thousand (100,000) and not more than one hundred ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, to determine the maximum annual salary to be paid an officer named in Section 13 of Chapter 465 of the Acts of the Second Called Session of the Forty-fourth Legislature, where such officer's salary was based upon population under the laws existing on August 24, 1935, on the basis of the population of said county, according to the last preceding Federal Census; provided that the Commissioners' Courts in said counties are authorized to fix the maximum annual salary for the balance of the fiscal year 1941 after the effective date of this Act on the basis of the Federal Census of 1940 and thereafter according to the last preceding Federal Census; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 520, A bill to be entitled "An Act providing that in counties having not less than 37,500 nor more than 38,250 population according to the last Federal Census, a candidate in a primary election of such county for State Representative in the Legislature shall not have his name placed on the ballot unless and until he has paid to the County Executive Committee a sum to be fixed not in excess of Fifty Dollars; repealing all laws or parts of laws in conflict herewith; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 537, A bill to be entitled "An Act amending Article 779 of the Revised Statutes; providing for the investment of county and road district sinking funds; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 538, A bill to be entitled "An Act making an appropriation to be paid out of the General Revenue Fund of the State of Texas the sum of Seventeen Thousand Two Hundred Dollars (\$17,200.00), not otherwise appropriated, to cover taxes due by the State of Texas to Fort Bend County, covering the years 1939 and 1940, inclusive, and the taxes to become due for the years 1941 and 1942; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 544, A bill to be entitled "An Act authorizing employees of the Texas Forest Service and such additional outside help or assistance they might call on to enter on any privately owned lands for the purpose of investigating and controlling forest and grass fires that appear to be or are burning uncontrolled; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 585, A bill to be entitled "An Act making it unlawful to hunt, take or kill any squirrel except during the months of October, November, and December in Cherokee County; providing for a penalty; repealing all conflicting laws; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 618, A bill to be entitled "An Act to amend Article 2779 of the 1925 Revised Civil Statutes of Texas by adding Article 2779a, to provide for the election of Tax Assessors and Collectors in Independent School Districts under certain circumstances; this Act to apply only to the Independent School Districts in those counties having a population of no less than nineteen thousand, two hundred and twenty (19,220) and no more than nineteen thousand, two hundred and forty (19,240), according to the last Federal Census; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 624, A bill to be entitled "An Act amending Chapter 2 (H. B. No. 614) of the Act of June 2, 1939, page 346, General Laws of the 46th Legislature, to provide for uniform fees to be charged for the issuance

of delayed birth and death certificates by the Probate Court, the clerk thereof and the State Registrar; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 666, A bill to be entitled "An Act repealing Section 3 of Chapter 24, Acts of the First Called Session of the 45th Legislature; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 678, A bill to be entitled "An Act requiring the Comptroller of Public Accounts to collect all State Occupation Taxes; repealing all laws in conflict therewith."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 682, A bill to be entitled "An Act providing that it shall be unlawful for any person to take, catch, ensnare or trap any fish by any means whatsoever in any waters of any public park under the control of the Texas State Parks Board, without the consent of the keeper, caretaker or superintendent of said park; providing a penalty, and authorizing any peace officer to arrest without warrant for a violation of any provision of this Act; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 691, A bill to be entitled "An Act to amend an Act passed by the Thirty-fourth Legislature, convened at the City of Austin, on January 12, 1915, and adjourned March 20, 1915, creating McAllen Independent School District, same being House Bill No. 677, Chapter 82, of the General and Special Laws of said Legislature, so that Section 3 be amended so as to provide for the appointment as Trustees, resident citizens and qualified voters in said District, each of whom shall be an owner of real property in said District; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 711, A bill to be entitled "An Act providing for a more adequate and equitable salary and increasing the amount for office and travel expenditures for county superintendents of public instruction in all those counties of Texas coming within the brackets and population figures herein; specifically in all those counties having not less than one hundred six thousand (106,000) and not more than one hundred seven thousand (107,000); and in all those counties having not less than ninety-two thousand (92,000) and not more than ninety-three thousand (93,000); and in all those counties having not less than eighty-three thousand (83,000) and not more than eighty-four thousand (84,000); and in all those counties having not less than twenty thousand, five hundred sixty (20,560) and not more than twenty thousand, five hundred seventy (20,570); and in all those counties having not less than twenty thousand, two hundred thirty (20,230) and not more than twenty thousand, two hundred fifty (20,-

250); and in all those counties having not less than thirteen thousand, two hundred twenty (13,220) and not more than thirteen thousand two hundred forty (13,240) according to the last preceding Federal Census; modifying all laws or parts of laws in conflict herewith; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 740, A bill to be entitled "An Act making an appropriation to be paid out of the General Revenue Fund of the State of Texas, in the sum of One Thousand, One Hundred Sixty-seven and 18/100 Dollars (\$1,167.18), not otherwise appropriated, to cover taxes due by the State of Texas to Walker County, covering the years 1932, 1939 and 1940, inclusive; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 768, A bill to be entitled "An Act relating to the subject of bonds, notes and warrants heretofore issued by the Board of Regents of the University of Texas, the Board of Directors of the Agricultural and Mechanical College, the Board of Directors of the Texas Technological College, the Board of Regents of the State Teachers College, the Board of Regent of the Texas State College for Women, and the Board of Directors of the Texas College of Arts and Industries, under Chapter 5, Acts of the Second Called Session of the Forty-third Legislature and amendments thereto, and all other laws, including the validating of the bonds, warrants and notes issued by said boards, the resolutions and

other proceedings authorizing the issuance and the provisions made for the payment of principal and interest of such bonds, warrants and notes; and making it the duty of said boards to fix, maintain and collect charges or rates sufficient to pay interest and principal as it accrues and matures on bonds, warrants and notes heretofore or hereafter issued, (pursuant to resolutions heretofore adopted), and to create and maintain reasonable reserves as prescribed in resolutions authorizing the issuance of such securities; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 774, A bill to be entitled "An Act to fix the maximum rate of tax to be levied for school purposes in all independent school districts having a scholastic population, according to the 1940-1941 scholastic census, of not less than 344 and not more than 347 approved scholastics, whether such school district is organized under general or special law; provided that no such tax shall be levied, collected, abrogated, diminished, or increased, and no bonds shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held for such purpose; prescribing the qualifications of voters eligible to vote in such election; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 786, A bill to be entitled "An Act amending Article 4618 of the Revised Civil Statutes of Texas,

1925, and providing for the sale of a homestead, by the wife, if her separate property, or the community property of husband and wife, where the husband is insane or has permanently abandoned the wife; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 813, A bill to be entitled "An Act validating the incorporation of the City of Uvalde, Texas, a city having a population in excess of 5000, heretofore operating in good faith under a charter adopted September 18th, 1934, in accordance with Chapter 13, Title 28 of the 1925 Revised Civil Statutes of Texas; providing that the incorporation of the City of Uvalde shall not be held invalid on account of irregularities in the appointment of a charter commission or lack of authority to appoint such commission or on account of irregularities in ordering the incorporation election, the election proceedings, and/or the manner of submitting the charter to a vote of the electorate, and/or the failure to submit to and have the electorate vote upon the charter in separate parts, articles or subjects, and/or in including any territory in the corporate limits of said city, and/or irregularities in canvassing the returns and declaring the result of the election and/or incorporation proceedings and/or failure to comply with any provision of Chapter 13, Title 28 of the 1925 Revised Civil Statutes of Texas; and validating all governmental proceedings performed, enacted, and/or instituted and/or ordained in good faith by the governing body of the city since its incorporation or attempted incorporation, respectively; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 859, A bill to be entitled "An Act making it unlawful to kill quail in Cherokee County except on certain days of the week during the period beginning December 1st and ending January 16th each year; fixing a bag limit; providing a penalty; defining what constitutes hunting; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 881, A bill to be entitled "An Act providing for the allowance of expenditures for office and traveling expenses of the County Superintendent of Public Instruction in certain counties to apply both when such counties have a school superintendent and when the county judge is the ex officio county superintendent; repealing all laws or parts of laws in conflict; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 892, A bill to be entitled "An Act making it unlawful to take or kill by trap, snare, or deadfall any fur-bearing animals in the County of Harrison; providing certain exceptions; providing the length of this Act; prescribing a penalty; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 893, A bill to be entitled "An Act providing an open season for mourning doves in Van Zandt and Rains Counties, from September 1 to October 31 of each year, and providing that other laws of this State with reference to taking and hunting mourning doves shall apply in said Counties; fixing a penalty for violation of this Act; repealing all laws in conflict; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 906, A bill to be entitled "An Act fixing a five year closed season on quail in De Witt County and providing certain penalties for violations."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 908, A bill to be entitled "An Act to provide for the maximum maintenance and bond tax rate for school purposes in all common school districts in counties having a population of not less than twenty-three thousand, nine hundred (23,909) and not more than twenty-three thousand nine hundred and fifteen (23,915), inhabitants, according to the last preceding Federal Census, and which counties have an assessed valuation in excess of twenty million dollars (\$20,000,000) according to the last preceding ap-

proved tax roll in such counties; repealing all laws and parts of laws in conflict herewith; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 916, A bill to be entitled "An Act providing that it shall be unlawful to buy or sell certain fish caught in Stephens County; any person found guilty of this Act shall be fined not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00); and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 918, A bill to be entitled "An Act applicable to all counties in this State having a population of not less than fifty thousand, nine hundred and fifty (50,950), nor more than fifty-one thousand, one hundred (51,100), in all counties having a population of not less than thirty-four thousand (34,000), nor more than thirty-five thousand (35,000), in all counties having a population of not less than ten thousand, seven hundred, seventy-five (10,775), nor more than ten thousand, nine hundred (10,900), and in all counties having a population of not less than twenty-nine thousand, two hundred, twenty-five (29,225), nor more than twenty-nine thousand, two hundred, forty (29,240), according to the last Federal Census, and prescribing the time and place of meeting of the County Board of School Trustees in such counties; providing for compensation to the members of the County Board of School Trustees in such counties and prescribing the

fund from which such compensation shall be paid; providing that this Act shall be cumulative of all existing laws on this subject when not in conflict herewith and that all laws or parts of laws in conflict herewith are repealed; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 921, A bill to be entitled "An Act to declare a closed season on the killing of deer, dove and quail in Culberson County and the killing of quail and dove in Hudspeth County for a period ending February 1, 1945; prescribing a penalty therefor; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 922, A bill to be entitled "An Act to fix the maximum rate of tax to be levied in all Independent School Districts having a scholastic population of not more than sixty-four hundred seventy-five (6,475), nor less than sixty-four hundred twenty-five (6,425), according to the 1940-1941 scholastic census; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 924, A bill to be entitled "An Act providing for a closed season on wild deer and wild turkey in Schleicher County for a period of

five (5) years; prescribing penalties for the violation of this Act; repealing all laws in conflict; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 927, A bill to be entitled "An Act providing an open season for mourning doves in Palo Pinto County, from September 1 to October 31 of each year, and providing that other laws of this State with reference to taking and hunting mourning doves shall apply in said county; fixing a penalty for violation of this Act; repealing all laws in conflict; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 932, A bill to be entitled "An Act providing for the closed season on wild deer, wild turkey, quail and javelina in Live Oak County, Texas, for a period of three (3) years; providing, however, none of the provisions of this Act shall apply to that part of Live Oak County known and defined as the J. Frank Dobie Game Preserve; prescribing penalties for the violation of this Act; repealing all laws in conflict; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 936, A bill to be entitled "An Act providing that it shall be

lawful in Cass County, Texas, for any person to kill, take, or have in his possession for barter or sale any wild fox or the pelts thereof from December 1 to December 31, inclusive, of any year; repealing all laws in conflict; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 937, A bill to be entitled "An Act providing for a closed season for turkey in Angelina and Tyler Counties for five (5) years; prescribing a penalty for the violation of this Act, and repealing all laws in conflict."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 940, A bill to be entitled "An Act amending Section 3 of Article II of Chapter 495, Acts 1936, Forty-fourth Legislature, Third Called Session, as amended by Section 1 of Senate Bill No. 9, Acts 1939, Forty-sixth Legislature, Regular Session, page 541, to provide methods of determining the age of an applicant for or recipient of old age assistance; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 948, A bill to be entitled "An Act creating Eolian Common School District No. 4 wholly estab-

lished in Stephens County, Texas, including therein the present Eolian Common School District, and certain territory in Stephens County not now a part of said district, defining its metes and bounds within Stephens County and repealing all laws and statutes in conflict herewith; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 949, A bill to be entitled "An Act providing that it shall be lawful to kill quail in Van Zandt County only on Monday, Wednesday, and Friday of each week after the first day of December, 1941, and continuing until and including the 16th day of January, 1942, and during the same time for each year thereafter on the same days of the week; providing the number of quail that can be killed on any one day; prescribing violations of this Act and providing the penalties therefor; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 952, A bill to be entitled "An Act providing for the use of certain set nets or gill nets in the waters of Montgomery County; specifying conditions under which such nets may be used; providing a penalty; repealing all laws in conflict herewith; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 24, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 954, A bill to be entitled "An Act amending House Bill No. 884 of the 42nd Legislature, as amended by House Bill No. 1109 of the 46th Legislature, so as to add thereto a new section to be known as Section 1a, following Section 1 thereof, to provide that it shall be lawful to take, capture, shoot or kill Collared Peccary or Javelina in the Counties of Webb, Starr and Zapata at any time; prohibiting the sale of any Collared Peccary or Javelina, or any part of the same, in said counties; prescribing penalties; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 28, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. C. R. No. 103, Inviting women leaders of organizations to address a Joint Session on May 7, 1941, at 11:00 a. m.

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 28, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. C. R. No. 102, Requesting the Congress of the United States to speed the passage of Senate Bill No. 1313.

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, April 28, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. C. R. No. 101, Granting permission to plaintiffs in causes Nos. 37 and 77 pending in the 112th District Court of Pecos County, to sue the State of Texas.

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Austin, Texas, April 28, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 567, "An Act making emergency supplementary appropriations for the support and maintenance of the Texas Liquor Control Board for the fiscal year ending August 31, 1941, and for the payment of refund claims filed under the provisions of the Texas Liquor Control Act; providing regulations and restrictions in respect to the appropriations made herein; and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

HOWINGTON, Chairman.

Austin, Texas, April 28, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 593, "An Act providing for the appointment by the District Judge of the Sixteenth Judicial District of Texas, composed of the Counties of Cooke and Denton, or the District Judge of the Judicial District of which the Counties of Cooke and Denton are a part thereof, of an official shorthand reporter for such District; providing his qualifications; providing that the salary of said official shorthand reporter shall be fixed and determined by the Judge of said District and not otherwise; providing for the manner of payment of said salary and out of what fund; providing for transcript fees and allowance for expenses as provided in Chapter 56, House Bill No. 276, Acts, Regular Session of the Forty-first Legislature, 1929, which allowances, as now provided by law, being fixed and established as a part of this Act; and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

HOWINGTON, Chairman.

SENT TO THE GOVERNOR

April 28, 1941

House Bill No. 567.

House Bil No. 593.

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JOURNAL
OF THE
House of Representatives
OF THE
REGULAR SESSION
OF THE
Forty-Seventh Legislature
BEGUN AND HELD AT
THE CITY OF AUSTIN
JANUARY 14, 1941



A. C. BALDWIN & SONS
AUSTIN, TEXAS

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HOUSE JOURNAL

FORTY-SEVENTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTY-THIRD DAY

(Tuesday, April 29, 1941)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Leonard.

The roll of the House was called, and the following Members were present:

Mr. Speaker	Dickson of Nolan
Allen	Donald
Allison	Dove
Alsup	Duckett
Anderson	Dwyer
Avant	Ellis
Bailey	Eubank
Baker	Evans
Bean	Favors
Bell	Ferguson
Benton	Files
Blankenship	Fitzgerald
Boone	Fuchs
Brawner	Gandy
Bridgers	Garland
Brown	Gilmer
Bruhl	Goodman
Bullock	Halsey
Bundy	Hanna
Burkett	Hardeman
Burnaman	Hargis
Carlton	Harris of Dallas
Carrington	Harris of Hill
Cato	Hartzog
Celaya	Heflin
Chambers	Helpinstill
Clark	Henderson
Cleveland	Hileman
Coker	Hobbs
Colson, Mrs.	Howington
Connelly	Hoyo
Craig	Huddleston
Crossley	Huffman
Crosthwait	Hughes
Daniel	Humphrey
Davis	Hutchinson
Deen	Isaacks
Dickson of Bexar	Jones

Kelly	Pace
Kennedy	Parker
Kersey	Pevehouse
Kinard	Phillips
King	Price
Klingeman	Rampy
Knight	Reed of Bowie
Lansberry	Reed of Dallas
Lehman	Ridgeway
Leyendecker	Rhodes
Little	Roark
Lock	Roberts
Love	Sallas
Lowry	Senterfitt
Lucas	Sharpe
Lyle	Shell
McAlister	Simpson
McCann	Skiles
McDonald	Smith of Bastrop
McGlasson	Smith of Atascosa
McLellan	Spacek
McMurry	Spangler
McNamara	Stanford
Manford	Stinson
Manning	Stubbs
Markle	Taylor
Martin	Thornton
Matthews	Turner
Mills	Vale
Montgomery	Voigt
Moore	Walters
Morgan	Wattner
Morris	Weatherford
Morse	White
Murray	Whitesides
Nicholson	Winfree

Absent—Excused

Bray Howard

A quorum was announced present.

Prayer was offered by Rev. George W. Coltrin, Chaplain, as follows:

"It is to Thee, Lord, that we may come, and we thank Thee for access to Thy throne of grace. Help us so to be, and so to live, that Thou wilt own and bless us, and that our praying shall not be formal, but with the